

# Rome Statute of the International Criminal Court: Implementation at the national level

**Opening remarks by Mr Jacques Forster, Vice-President, International Committee of the Red Cross (ICRC), Moscow, Russian Federation, 4-5 February 2004**

Excellencies,  
Ladies and Gentlemen,

It is both an honour and a pleasure for me to be here in Moscow today to address the opening session of this important conference.

First of all I would like to say how grateful I am to the Russian Association of International Law for having joined efforts with the ICRC's regional delegation in the Russian Federation to make this event possible. In view of the role played by institutions of higher education in forming future politicians and statesmen, the ICRC pays special attention to its cooperation with such institutions in the programmes it carries out to promote international humanitarian law. In this regard, I would like to underline the very close and fruitful cooperation that exists between the ICRC and the Russian Association of International Law, which brings together all the leading international law scholars in the Russian Federation. Such cooperation takes the form of joint projects such as conferences, seminars, round tables and academic research.

This conference will examine the important work that is currently being carried out in the Russian Federation by the working group that the Ministry of Justice has set up to bring the country's domestic criminal legislation in line with the Rome Statute of the International Criminal Court (ICC). The purpose of the conference is to provide the members of the working group and other persons concerned with an opportunity to hold in-depth discussions on specific issues relating to the repression of the crimes defined in the Rome Statute, to the country's adherence to the Statute and to the complex but essential task of implementing this treaty and establishing the necessary framework for cooperation with the ICC.

The President of the ICC is the most qualified person to comment on this new international jurisdiction and we are very honoured and grateful to have him among us. I would also like to thank the legal experts who have come from Western Europe and Canada for having accepted our invitation to share with us their countries' experiences in setting up a legal framework for implementing the Rome Statute and cooperating with the ICC.

Before introducing the specific objectives of this conference allow me to say a few words, first on the ICRC's activities, and on international humanitarian law.

Since it was founded in 1863, the ICRC, in its capacity as an impartial, neutral and independent organization, has provided protection and assistance for countless numbers of persons affected by a sad and constant stream of armed conflicts and other forms of violence. Visits to prisoners of war and other persons deprived of their freedom, restoring ties between family members separated by conflict, assisting civilians in war-affected areas and providing people with medical aid, are but a few of the many activities the organization carries out on the basis of the mandate conferred on it by the international community. The ICRC currently conducts activities in some 80 countries around the world and maintains a permanent presence in more than 60 of them.

As part of its operational work, the ICRC also seeks to ensure and strengthen respect for and implementation of international humanitarian law, otherwise known as the law of armed conflict. The ICRC acts as the promoter and guardian of this branch of international law, which is first and foremost enshrined in the Geneva Conventions of 1949 and the Additional Protocols of 1977 but has developed into a dense, complex and in some respects very detailed body of

treaty and customary rules. In this role, the ICRC promotes, defends, interprets, asserts and monitors the application of international humanitarian law, contributes to its development and assists national authorities in its implementation, including those aspects that concern individual criminal responsibility for war crimes.

The ability of this body of law to serve its humanitarian purposes in the conflicts of the twenty-first century has recently been the subject of some debate. Nonetheless, the ICRC strongly believes that the four Geneva Conventions and their Additional Protocols, together with other international humanitarian law treaties and norms of customary law, provide a bedrock of principles and rules specifically designed for emergency situations such as armed conflicts and that they must continue to guide the conduct of hostilities and the treatment of persons who have fallen into the hands of a party to an armed conflict. This belief was confirmed recently by the 28th International Red Cross and Red Crescent Conference which declared its conviction that "the existing provisions of international humanitarian law form an adequate basis to meet the challenges raised by modern conflicts". Respect for these principles and rules, is without any doubt crucial to limiting suffering and destruction in situations of armed violence. To ensure such respect, States must take action already in peacetime.

The Geneva Conventions and their Additional Protocols contain explicit obligations and prohibitions designed to limit the effects of armed hostilities. They also require States to prevent violations of the law, to repress them when they occur and to enact mechanisms for prosecuting and punishing perpetrators of the most serious violations, which are referred to in the treaties as "grave breaches" and are considered as war crimes.

International humanitarian law does not itself set out specific penalties, nor does it provide for the creation of a court to try offenders. Instead, it requires States to enact national criminal legislation to punish perpetrators of grave breaches under national jurisdictions. It also requires States to search for persons accused of such breaches and either to bring them to trial before national courts, or, to extradite them to another State regardless of their nationality and of the place where the crime was committed, in application of the principle of universal jurisdiction. States are also under an obligation to assist one another in matters relating to criminal proceedings for war crimes. Other instruments prohibiting or restricting the use of certain weapons and protecting cultural property in the event of armed conflict establish similar obligations, as do international human rights law treaties such as the Convention on Genocide.

The Rome Statute, on which the discussions of this conference will focus, sets up a new international body for repressing war crimes and other serious crimes that concern the international community as a whole and that may also be committed in peace time. A significant step forward in our common endeavour to promote greater respect for international humanitarian law, the Rome Statute reflects the international community's longstanding wish to ensure that the crime of genocide, crimes against humanity and war crimes do not go unpunished. In emphasizing that the ICC shall be complementary to national jurisdictions, which will continue to play a key role in repressing the crimes it defines, the Statute recognizes the primary responsibility of States to repress international crimes and thereby establishes a comprehensive and hopefully more effective system of mechanisms for prosecuting and punishing serious violations of international humanitarian law and human rights law. This is why the ICRC supported the establishment of the ICC and contributed its expertise during the negotiation of the Rome Statute, helping to draft the Statute's definitions of war crimes and rules of procedure and evidence. You might be interested to know that the ICRC's association with the concept of international criminal justice is as old as the ICRC itself since it dates back to when ICRC founder Gustave Moynier first proposed an international criminal court 140 years ago.

Today, the ICRC continues to support the ICC as part of its efforts to promote respect for international humanitarian law by urging States to adhere to the relevant treaties and enforce them at the national level. In this respect, the ICRC Advisory Service on International Humanitarian Law, which was set up in 1996 to provide States with more effective assistance, has been giving States technical advice on the ratification and implementation of humanitarian

law instruments and facilitating the exchange of information on measures, legislative and other, already adopted.

As part of its activities, the Advisory Service, which operates in the Russian Federation through its unit based at the ICRC delegation in Moscow, focuses on encouraging and supporting the implementation of the mechanisms provided for under international humanitarian law treaties and the Rome Statute for repressing serious violations of the law. In addition to facilitating expert meetings such as the present one, it produces technical materials and shares information on laws in other countries, helps assess existing criminal laws and procedures in the light of international humanitarian law and the Rome Statute and, upon request, provides assistance and advice in drafting domestic legislation or amendments to existing laws and in training prosecutors and judges in countries where legislation on war crimes exist.

The Advisory Service works closely with national authorities, taking into account their specific needs and the political and legal systems of their respective countries. In this regard, I would like to acknowledge the fruitful dialogue and excellent cooperation that has been developed over the past years between the ICRC and the Russian authorities and the important work that has been carried out so far by the working group I mentioned earlier, with whose members our legal advisers have been in contact. I would also like to congratulate the government of the Russian Federation on its decision to entrust the working group with the task of bringing domestic legislation in line with international humanitarian law and the Rome Statute, and on thus showing its commitment to comply with international law and internationally recognized standards.

Excellencies,  
Ladies and Gentlemen,

This is not the first meeting of experts to be held in Moscow, with the support of the ICRC Advisory Service, on matters relating to the punishment of some of the most serious crimes under international law. In particular, I would like to recall the *Regional Conference on the Repression of War Crimes at National and International Level*, which was held in May 2000 to examine national systems for repressing grave breaches of international humanitarian law, and the *Regional Conference on the Ratification and Implementation of the Rome Statute*, which was held in March 2001 to present, analyse and comment on the Statute. During both meetings, which I had the pleasure of attending, high-level officials from CIS Member States and international experts discussed specific issues relating to the punishment of war crimes and other international crimes by national and international jurisdictions. The present meeting is aimed at discussing these same issues in connection with the specific situation in the Russian Federation, and with the legal order in place here, with a view to supporting the adoption of a coherent national legal framework, in line with the country's obligations under international law, for repressing the crimes defined under the Statute. Its specific objectives are to:

- consider the main provisions of the Rome Statute of the International Criminal Court;
- discuss the main obstacles and difficulties arising from adherence to and implementation of the Rome Statute;
- examine the process under way in the Russian Federation to amend existing legislation with a view to implementing the provisions of the Rome Statute; and
- facilitate the exchange of opinions and information between Russian and foreign experts.

I am looking forward to the interesting discussions we are certain to have on these important topics and hope that this meeting will be highly productive.

Thank you.

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