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Ratification and Implementation of the Kampala Amendments on the Crime of Aggression in the European Context

Side Event at the Council of Europe
Committee of Legal Advisers on Public International Law (CAHDI), 26 March 2013

Informal Summary

Moderator: **Niels Blokker**, Senior Legal Adviser to the Ministry of Foreign Affairs, Netherlands

The event was opened by **Daniel Ospelt**, Permanent Representative of Liechtenstein to the Council of Europe, who pointed to Liechtenstein's longstanding commitment to the International Criminal Court and the rule of law. **Thorbjørn Jagland**, Secretary-General of the Council of Europe, recalled the Council of Europe's longstanding support for the ICC and its principles and commended the achievements of the Kampala Conference. In her opening remarks, **Liesbeth Lijnzaad**, Legal Adviser to the Netherlands Ministry of Foreign Affairs and CAHDI Chair, noted that the stage of ratification and implementation of the amendments had now arrived, which required a discourse between experts in the *jus ad bellum* and criminal lawyers.

David Donat Cattin, Senior Director International Law and Human Rights Programme, Parliamentarians for Global Action, referred to "crimes against the peace," which had been declared illegal as early as 1943. The attachment of criminal responsibility to the crime of aggression was a logical and important next step, not least because it prevented the stigmatisation of entire groups. Moreover, while certain protected groups – e.g. victims, civilians, those hors de combat – were already protected by the other three crimes in the Rome Statute, the provisions on the crime of aggression were the only ones protecting foot soldiers.

Stefan Barriga, Deputy Permanent Representative of Liechtenstein to the United Nations, noted that the amendments entered into force for each ratifying State individually, in accordance with article 121(5) of the Rome Statute. Any State wishing to contribute to the earliest possible activation of the Court's exercise of jurisdiction should ratify no later than by the end of 2015, and support the one-time activation decision that may be taken by the Assembly of States Parties as of 2017. Once activated, the amendments would allow the Court to adjudicate the crime of aggression based on Security Council referrals without further conditions. In case of State referrals and *proprio motu* investigations, the exercise of jurisdiction would be consent-based.

The definition of the crime of aggression was composed of the definition of the individual conduct (including leadership clause) and the collective conduct, said **Astrid Reisinger Coracini**, Executive Director, Salzburg Law School on International Criminal Law, Humanitarian Law and Human Rights Law. She encouraged States to review existing legislation criminalising the crime of aggression in order to see whether adjustments are required to bring it in line with the definition reached in Kampala.

In the ensuing discussion, **Romania** announced that a conference on the universality of the Rome Statute would take place in Bucharest on 22 and 23 May 2013, which will also include the amendments. The representative from **Germany** announced that all internal procedures for ratification had been completed and the instrument of ratification would be deposited in April or May. The explanatory memorandum submitted to parliament had been translated into English and published (available on <http://crimeofaggression.info/resourcessearch/ratification-documents/>).

For more information on the amendments, please consult our Handbook available at www.crimeofaggression.info.