

## EKSAMEN I JURIDISKE VALGEMNER

VÅR 2016

Dato: Thursday 12. May

Tid: Kl. 10:00 – 14:00

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### JUS5570 - International Criminal Law

#### General instructions:

- The language of examination for this course is English. Students may answer in English ONLY, answers in any other language than English will be given an F (F for fail).
- Structure your answers and start with answering the question you're most familiar with.
- The main law applicable is to be found in the Statute of the International Criminal Court (ICC), the Rules of Procedure and Evidence, and Elements of Crimes.

#### Exam Questions

##### Question 1

Explain how the principle of complementarity is included in the International Criminal Court (ICC) Statute and what purpose does this principle serve within the ICC system?

##### Question 2

The armed conflict which has been going on for over five years in Syria has caused over 400.000 deaths (according to the UN Secretary-General Special Envoy for Syria), 4.8 million refugees, and 6.6 million internally displaced persons. According to the UN Office for the Coordination of Humanitarian Affairs, in 2016 there is an estimated 13.5 million people, including 6 million children, who are in need of humanitarian assistance. Of these 4.6 million people are in hard-to-reach areas, including close to 500.000 people living in besieged areas. Because of the security situation and the lack of cooperation on the part of the Syrian government and armed opposition groups, hundreds of thousands of persons have been deprived of any humanitarian assistance; a situation which the ICRC has condemned on several occasions as a serious violation of international humanitarian law. During the last couple of years there was an increase in the intensity of the fighting between the Syrian government armed forces and Syrian armed opposition forces, which control large parts of Syrian territory. However, from late February 2016 a general cease-fire among the parties to this armed conflict seems to have been established. Throughout the armed conflict some regional and Western countries have provided material and other support to Syrian armed opposition forces, whereas Russia, Iran, and Hezbollah (Lebanon) have provided support to the Syrian government armed forces.



- A. Commander A of the Syrian government armed forces is compelled to release a detainee whom he strongly suspects killed one of his soldiers. He orders his lieutenant to transport the man to a nearby village and to “take care of him” along the way. The lieutenant executes the detainee in the desert and upon return to the military base claims that he had to shoot the detainee because he was trying to escape. *Can Commander A be held criminally responsible for what happened and, if so, for what crime? What about the individual criminal responsibility of the lieutenant?*
- B. Speaking before the UN Human Rights Council on 15 March 2016, Paulo Pinheiro, Chair of the Commission of Inquiry on Syria, stated that thousands of persons are detained and tortured in Syria, many dying in places of detention. Countless numbers of people are still missing. The ISIS armed group continues to use suicide bombs on civilian areas outside its control. Particularly horrifying is ISIS continued sexual enslavement of Yazidi women and girls, over 3000 of whom are still held by this terrorist group. Reports of indiscriminate attacks on civilian inhabited areas by the armed group Jabhat al-Nusra and its tactical allies continue to emerge. With the peace process not yielding the expected results, many State and non-State actors have been increasingly demanding for the international community to intervene militarily to stop the violence and prevent further suffering among the civilian population, and also for the International Criminal Court (ICC) to get involved so as to hold individuals liable for possible international crimes. While Syria is a member of the United Nations (UN), it is not a Party to the ICC Statute. *What are the possibilities for the ICC to investigate and prosecute individuals responsible for the international crimes committed in Syria? Describe, generally, the basis for and how the ICC may exercise jurisdiction over crimes committed in Syria.*
- C. With no end to the armed conflict in sight and in order to put more pressure on the warring parties, on 15 April 2016 the UN Security Council decided to refer the situation in Syria to the ICC through a Resolution adopted under Chapter VII of the UN Charter. In this resolution, the UN Security Council named several senior civilian and military leaders from Syria, including President Asad, putting them on a list of travel restrictions and ordering the freezing of their assets. At the same time, the Security Council asked all UN Member States to cooperate with the ICC in its criminal investigations. On its part, the ICC moved swiftly to open investigations and on 5 May the ICC Pre-Trial Chamber 1 issued an arrest warrant against President Assad and 10 other individuals from the government of Syria and from the main armed opposition groups, including ISIS. These eleven individuals were charged with many counts of war crimes and crimes against humanity. On 10 May, President Assad, decided to travel to Iran on an official visit to meet with the Iranian President Rouhani. Iran is not a State Party to the ICC Statute. *Can President Assad claim head of State immunity and does Iran have a legal obligation to surrender President Assad to the ICC?*

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*The result of the exams will be announced Thursday 2nd<sup>d</sup> June, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00. After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.*

Oslo, 12.05.2016