The Implementation of the Rome Statute of the International Criminal Court in the Nordic Countries: A New Comprehensive Criminalization of Serious Crimes

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1 Introduction

In the international arena, the Nordic countries have been among the principal supporters of the International Criminal Court (ICC) and effective enforcement of international criminal law. They were active in the drafting of the Rome Statute and played an important role in its adoption and entry into force.1 Their continued support of the ICC is well reflected in their joint yearly statement to the General Assembly of the United Nations, in which they have renewed their pledge to remain principal supporters of the Court.2 The Nordic countries have also supported effective enforcement of international humanitarian law at the national level. It was at the request of Denmark, Finland, Norway, and Sweden that the Status of the Protocols additional to the Geneva Conventions of 1949

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1 Denmark, Finland, Norway and Sweden were members of the so-called Like-Minded Group that was influential in the drafting process. Some delegates of the Nordic countries served as key officials in the drafting process of the Rome Statute, as well as in the later work of the Preparatory Commission. In general on the role of various actors in the negotiations process, see F. Benedetti, K. Bonneuau and J. Washburn, Negotiating the International Criminal Court, New York to Rome, 1994–1998 (Martinus Nijhoff Publishers, Leiden, 2014); R. Lee (ed.), The International Criminal Court, The Making of the Rome Statute, Issues, Negotiations, Results (Kluwer Law International, The Hague, 1999).

was included in the agenda of the General Assembly of the United Nations during the years 1982–2008, resulting in national reporting on the relevant implementation by the member states of the United Nations.\footnote{Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, UN Doc (A/37/142).} Effective implementation of the European Union Guidelines on promoting compliance with international humanitarian law was also one of Finland’s priorities during its presidency of the EU in 2006. According to the Guidelines, the EU countries are to ensure that those responsible for war crimes are brought before their respective domestic courts, the courts of another State, or the ICC.\footnote{See Updated European Union Guidelines on promoting compliance with international humanitarian law (111.), OJ 2009/C 303/06, OJ C 303/12, 15 December 2009.}

A key condition for effective implementation of international criminal law at the national level is proper national legislation. Absence of – or flaws in implementing – legislation can delay or even prevent prosecution of those accused of serious crimes.\footnote{J.K. Kleffner, *Complementarity in the Rome Statute and National Criminal Jurisdictions* (Oxford University Press, New York, 2008) p. 38.} Importantly, implementation of international criminal law and criminalization of serious crimes at the national level have undergone a major reinforcement in recent years. The entry into force of the Rome Statute in 2002 was the key catalyst for this change. States stepped up their efforts to fight impunity, and ensured that they would be able to exercise jurisdiction in accordance with the complementarity principle of the ICC. These efforts have led to a significant development with respect to quantity and nature of national legislation on international humanitarian law and gross violations of human rights.

The Nordic countries have been part of this phenomenon. In the last few years, most of them have adopted major new items of domestic legislation on genocide, crimes against humanity and war crimes. This is reflected in the Norwegian act of 7 March 2008, incorporating a new substantive chapter in the general national criminal code (*LOV-2008-03-07-4, Lov om straff, Kapittel 16. Folkemord, forbrytelse mot menneskeheten og krigsforbrytelse*, taking effect the same day); a Finnish act similarly inserting a new substantive chapter in Finland’s national criminal code (*Law 212/2008, Strafflag 19.12.1889/39, 11 kap. Om krigsförbrytelser och brott mot mänskligheten*, taking effect on 1 May 2008); and most recently a Swedish act of 2014 on the criminalization of genocide, crimes against humanity and war crimes (*Lag 2014:406 om straff för folkmord, brott mot mänskligheten och krigsförbrytelser*, taking effect on 1 July 2014).