Rome Statute of the International Criminal Court

Ambos

4. Auflage 2022 ISBN 978-3-406-74384-9 C.H.BECK

schnell und portofrei erhältlich bei beck-shop.de

Die Online-Fachbuchhandlung beck-shop.de steht für Kompetenz aus Tradition. Sie gründet auf über 250 Jahre juristische Fachbuch-Erfahrung durch die Verlage C.H.BECK und Franz Vahlen.

beck-shop.de hält Fachinformationen in allen gängigen Medienformaten bereit: über 12 Millionen Bücher, eBooks, Loseblattwerke, Zeitschriften, DVDs, Online-Datenbanken und Seminare. Besonders geschätzt wird beck-shop.de für sein

umfassendes Spezialsortiment im Bereich Recht, Steuern und Wirtschaft mit rund 700.000 lieferbaren Fachbuchtiteln.

Α

Act of aggression 8bis 88 ff.

- acts by a State 8bis 91 ff.
- allowing one's territory to be used for an act of aggression 8bis 140 ff.
- annexation by the use of force 8bis 121 ff.
- armed forces by private actors 8bis 92
- attack 8bis 109
- attack by the armed forces of a State 8bis 111 ff.
- attack on the land, sea or air forces, or marine and air fleets of another State 8bis 132 ff.
- blockade 8bis 128 ff.
- blockade of landlocked States 8bis 130
- bombardment by the armed forces of a State 8his 123 ff.
- declaration of war 8bis 104
- effective control standard 8bis 92
- invasion 8bis 108
- meaning 8bis 89
- meaning of 'against the sovereignty, territorial integrity or political independence of another State, or in any manner inconsistent with the Charter of the United Nations' 8bis 94 ff.
- meaning of 'means the use of armed for ces' 8bis 90
- meaning 'of the territory of another State' 8bis 113 ff.
- military occupation 8bis 115 ff.
- sending of irregular forces 8bis 144 ff.
- UN GA Resolution 3314 8bis 99 ff.
- using any weapons by a State against the territory of another State 8bis 126
- violation of stationing agreements and unlawful extension of presence **8bis** 136 ff.

Ad Hoc Committee proposal 17 5 ff.

- burden of proof 17 36 ff.
- challenge of the admissibility of a case 18
- decision not to prosecute 17 44 ff.
- double jeopardy 17 53
- ILC Draft 17 5 ff.
- inactivity 17 27
- insufficient gravity 17 54 ff.
- lack of impartiality or independence 17 70 ff.
- meaning of 'genuinely' 17 41 ff.
- meaning of 'same case' 17 31 ff.
- Preparatory Committee's Draft 17 10 ff.
- Rome Conference 17 17 ff.

- shielding the person 17 65 ff.
- testing impartiality 17 73
- unjustified delay 17 67 ff.

- 'unwilling or unable' test 17 38 ff. Additional evidence in appeal proceedings

- admissibility 83 72 ff.
- interlocutory appeal 83 29 ff., 42, 84,
- proceedings relevant to the admissibility of additional evidence 83 82 ff.

Administration of the Court

- oversight of ethics, professional conduct, privileges and immunities 38 26
- oversight of judicial proceedings 38 20 ff.
- oversight of organisation and work of Chambers 38 21 ff.
- presidency 38 19 ff.

Admissibility of a case 17 1 ff.

Admission of guilt

- conviction according to an admission of guilt 65 33 ff.
- invalid admission of guilt 65 37 ff.
- presentation of facts in the interest of justice **65** 39 ff.
- understanding nature and consequences of admission 65 22 ff.
- valid admission of guilt 65 14 ff.
- voluntary admission after consultation with counsel 65 28

Adviser to Prosecutor 43 32 ff.

Advisory Committee on Nominations 112 60 Aggression

Understanding 10 3

Agreement on conditions for disclosure of national security information 72 33 ff.

AIDP Draft 1 1

Alternate judges 74 19 ff.

- presence at trial 74 21
- Pre-Trial Chamber 74 23
- purpose 74 20

Amendments to provisions of an institutional nature **122** 1 ff.

- adoption by ASP or Review Conference 122
 5 ff.
- no right of immediate withdrawal 122 7
- simplified amendment procedure 122 2
- text to be submitted to Secretary-General 122 4

Amendments to the Rome Statute 121 1 ff.

- adoption of amendments 121 11
- amendments to crimes 121 13 ff.
- amendments to Articles 121 13
- considerations by the ASP 121 9 ff.

- considerations by the Review Conference 121 10
- entry into force 121 12
- proposala 121 8
- required majority 121 11
- right to withdraw 121 16
- right to withdraw if not accepting amendment 121 16 ff.
- Secretary-General to circulate amendments 121 18
- subsequent practice under the article 121 19–29

Annexation by the use of force act of aggression **8bis** 121 ff.

Apartheid

- Apartheid Convention 7 59, 184 ff., 266 ff.
- crimes against humanity 7 1 et seq., 7, 25, 67, 155 ff., 262
- definition 7 184 ff., 200 ff.
- historical development 7 184 ff., 266
- institutionalised regime of systematic oppression and domination 7 268
- meaning 7 266
- racism 7

Apartheid Convention 7 59, 184 ff., 266 ff. Appeal 81 1 ff.

- against other decisions 82 1 ff.
- against sentence 81 29 ff., 106 ff.
- binding effect of decisions 81 18, 77
- decisions by Pre-Trial Chamber or Trial Chamber 82 9
- decisions granting or denying release **82** 15
- decisions on jurisdiction or admissibility **82** 11 ff.
- dismissal of grounds of appeal 81 38 ff.
- error of fact 81 85 ff.
- error of law 81 56 ff.
- execution while appeal is pending 81 118 ff.,
 136 ff., 82 22 ff.
- grounds of appeal 81 38 ff., 41 ff.
- interlocutory appeal 82 1
- issues of general significance 81 146 ff.
- leave to appeal a decision 82 18 ff., 21
- legal nature 81 38 ff.
- mixed errors of fact and law 81 66
- principle of precedent 81 36 ff.
- procedural errors 81 17, 27, 45, 54, 56 ff.,112
- raising of new issues by Appeal Chambers proprio motu 81 18, 111
- reconsideration by the Appeals Chamber of its own final judgments 81
- reparation orders 82 15
- scope **81** 142 ff.
- standard of review for sentencing appeals 81 38 ff., 85 ff.
- standards of review on appeal 81
- trial management 81 73

- victim participation 82 14
- violation of right to fair trial 81 100 ff.
- waiver principle **81** 18, 77, 55

Applicable law 21 1 ff.

- applicable treaties 21 25 ff.
- customary international law principles 21
 28
- discretionary use of precedents 21 51
- drafting history 21 2 ff.
- established principles of international law of armed conflict 21 39
- general principles of law derived by the court from national laws of legal systems of the world 21 40 ff.
- hierarchy of sources 21 16 ff.
- interpretation of law 21 58 ff.
- precedents 21 51 ff.
- principles of international law 21 28 ff.
- rules of international law 21 35 ff.
- stare decisis principle 21 51

Applicable treaties 21 25 ff.

Appointment of Prosecutor 42 16 ff.

Armed conflict

- definition 8 28
- Non Internation Armed Conflict 8 30 ff.
- war crimes 8 26 ff.

Armed conflicts

- between forces of the government and other groups with third States being involved 8
- exclusively between two or more States 8 851
- other serious violations of the laws and customs applicable in armed conflicts not of an international character 8 1037 ff.
- without third States being involved 8 852 ff.
 Armed Conflicts
- cyber operations 8 29, 187 ff.

Armed forces by private actors act of aggression **8bis** 92

Arrest or detention 55 8

Arrest proceedings in the custodial State **59** 1 ff.

Arrest, detention or abduction of persons 7 182, 257, 272, 273 ff., 278

Article 12 States 19 39 ff.

Asphyxiating, poisonous or other gases, and all other analogous liquids, materials or devices 8 994 ff.

non-international armed conflict 8 994 ff.

Assembly of States Parties 112 1 ff.

- Advisory Committee on Nominations 112
 60
- alteration of the number of judges 112 25 ff.
- approval of relationship agreement 2 17 ff.
- Assembly Rules of Procedure 112 96
- Assembly sessions 112 80 ff.

- Committee on Budget and Finance 112 22, 56 ff.
- crime of aggression 5 45 ff.
- default to pay contributions 112 92 ff.
- fiscal authority 112 20 ff.
- functions 112 8 ff.
- historical development 112 1 ff.
- Independent Oversight Mechanism 112 13, 59 ff
- Independent Panel on ICC Judicial Elections 112 31
- legislative decisions 112 98 ff.
- majority requirements 112 85 ff.
- management oversight 112 13 ff.
- membership 112 47 ff.
- non-cooperation 112 36 ff.
- observer 112 5, 7
- Oversight Committee 112 59, 61 ff.
- participation of Court organs 112 78
- promoting complementarity 112 9
- promoting cooperation 112 40
- promoting universality 112 41
- recommendations of the Preparatory Commission 112 9 ff.
- Special Working Group on the Crime of Aggression 112 77, 101
- Study Group on Governance 112 15, 24
- subsidiary bodies 112 52 ff.
- The Hague Working Group 112 24
- the 'Bureau' 112 34,38, 41 ff., 47 ff.
- voting rights 112 5
- Working Group on Amendments 112 71 ff.
- working languages 112 97

Assembly sessions 112 80 ff. /

Assessed contributions 115 16, 117 1 ff.

Assistance in relation to investigations or prosecutions **93** 16 ff.

Assurance not to be prosecuted, detained or subjected to any restriction of personal freedom **93** 42

Asylum proceedings under Headquarters Agreement 3 52 ff.

Atacks against peacekeeping missions 8 219 ff. Atacks on humanitarian assistance 8 219 ff. ATS 10 24

Attack

- attacks on humanitarian assistance or peacekeeping missions in international armed conflict 8 223
- connected to State or organisational policy 7 204 ff.
- course of conduct 7 202
- crimes against humanity 7 200 ff.
- direction of attack 7 203
- intentionally directing attacks against civilians not taking direct part in hostilities 8 184
- multiple act 7 202

Attack against protected buildings 8 399 ff.

- elements of crime 8 409 ff.

Attack by the armed forces of a State as act of aggression **8bis** 111 ff.

Attack on the land, sea or air forces, or marine and air fleets of another State **8bis** 132 ff.

Attacking or bombarding undefended notmilitary objectives **8** 254 ff.

- conditions 8 257
- customary law 8 255
- elements 8 254
- non-defended localities 8 259
- 'legitimate military objective' concept 8 263

Attacks against civilian objects 8 210 ff.

Attacks against civilians 8 184 ff.

Attacks against cultural objects, places of worship and similar institutions 8 946

Attacks against installations and personnel using the distinctive emblems **8** 937

Attacks against persons hors de combat 8

Attacks against the civilian population **8** 931 ff. Attacks against the natural environment **8**

Attacks on humanitarian assistance or peacekeeping missions in international armed conflict 8 219 ff.

attack 8 224

243 ff.

- elements 8 223 ff.
- entitlement to protection given to civilians
- and civil objects 8 235 ff.
- ILC Draft Code 1996 8 220

intentionally directing attacks 8 244 ff.

normative origin and drafting history 8 219
 Attempt

- abandonment of attempt 31 8

Attendance and testimony of witnesses in the trial **64** 32

Audit of the Court 118 1 ff.

Authority to make cooperation request 87 4 ff. Authority to request the submission of evidence 69 34 ff.

Authorization by the Security Council if crime of aggression **8bis** 80 ff.

В

Beneficiaries of the Trust Fund **79** 5 ff. Binding effect of decisions **81** 1 ff., 29,69, 95 BINUCA **2** 40

Biological experiment 8 100 ff.

- actus reus 8 103
- meaning 8 100

Biological weapons 8 587 eet seq., 587 ff., 10

- international armed conflict 8 817 ff.
 Blockade
- act of aggression 8bis 128 ff.
- blockade of landlocked states 8bis 130

Bombardment by the armed forces of a state 8bis 123 ff.

Budget

- budget decision 115 9 ff.
- budget document 115 9
- budget of Prosecutor 42 13
- budget period 115 10
- stages and responsibilities in the budget process 115 11 ff.

Bullets which expand or flatten easily in the human body **8** 591 ff.

- Bit 8 591 ff.
- drafting history 8 591
- elements 8 592 ff.
- mental element 8 596 et seq,

Bureau 112 47 ff.

- function and sessions 112 48
- members 112 47 ff.
- representative character 112 50

C

Calling judges to serve full-time 35 17 ff.

Caroline formula 8bis 72

Causing serious bodily or mental harm **6** 23 ff. Challenge evidence and raise defence **67** 36 ff. Challenges

- admissibility of a case 19 1 ff.
- jurisdiction of the ICC 19 1 ff.
- limits on the number of challenges 19 60 ff.
- prompt challenges by states 19 70 ff.
- right to challenge 19 30 ff.

Challenges to the jurisdiction of the Court or the admissibility of a case 19 1 ff.

- challenge to jurisdiction of the Court 19 25 ff.
- challenges to the admissibility of a case 19 21 ff.
- determination of jurisdiction by the Court 19 2 ff.
- right to challenge 19 30 ff.
- standard of proof required on admissibility questions 19 17, 21,25, 104

Chambers 39 1 ff.

- composition 39 3 ff.
- judges assigned to the Appeals Division 39
- number of judges 36 1 ff., 39 1
- term of assignment 39 11 ff.

Change in the law 24 36 ff.

Charter of the United Nations re violation by act of aggression *8bis* 46 ff.

Chemical weapons 8 574 ff.

Chemicaweapons 10 26

Children as victims or witnesses 68 21

Choice of defence counsel 67 30

Civilians 8 761

Classification of war crimes 8 48 ff.

Collapse or availability of national judicial system 17 74 ff., 76

Collateral damage 32 51 ff.

Command responsibility 33 32 ff.

Commander's failure to exercise control properly

- accountability **29** 1

Commander's failure to take all necessary and reasonable measures **28** 65 ff.

- irregular groups 28 72
- knowledge about force's actions or planned actions 28 67
- measures to prevent or repress or to submit 28 66
- mental element 28 52 ff.
- motivations of commander 28 71
- proportionality and feasibility 28 70
- remoteness 28 71

Commencement of the trial 64 39 ff.

- medical, psychiatric or psychological examination of the accused 64 40
- plea guilty **64** 42
- power of presiding judge **64** 43 ff.
- reading of the charges **64** 39
- record of the trial **64** 52
- ruling on admissibility or relevance of evidence **64** 50
- taking steps to maintain order **64** 51

Committee on Budget and Finance 112 56 ff.

Committee on International Criminal Jurisdiction 1 2

Communication between Court and sentenced person 106 11

Compelling a protected person to serve in the hostile forces **8** 127 ff.

Compelling adversary nationals to take part in war operations **8** 522 ff.

- compelling 8 527
- elements 8 527
- in operations of war against their own country 8 528 ff.
- normative origin and drafting history 8
 522 ff.

Compelling to serve in hostile forces 8 127 ff. Compensation to an arrested or convicted person 85 1 ff.

- Court's discretion 85 19
- drafting history 85 1 ff.
- requirements 85 9 ff.

Competing request re cooperation other than surrender **93** 73 ff.

Competing requests for surrender 90 1 et eq.

- competing requests **90** 5
- competing requests for different conduct 90
 25 ff
- Court's determination that the case is admissible 90 8 ff., 19 ff.

- determination to surrender to the Court or extradite to the requesting State 90 22
- drafting history 90 1 ff.
- intermediate proceedings 90 11 ff.
- notification of the Court 90 29
- notification requirements 90 6
- priority to requests from the Court 90 15 ff.

Concept of complementarity 1 18 ff.

Conditions of imprisonment 106 9 ff.

Conditions of service of judges 35 26 ff.

Confidential information 99 36

Confidential information in the trial $\,\mathbf{64}\,33\,$

Confidentiality and disclosure 2 51

Confirmation hearing 61 1 ff., 11 ff.

- absence of the person charged 61 19 ff.
- amendment to or withdrawal of charges before the hearing **61** 80 ff., 146 ff.
- conduct 61 112 ff.
- decision adjourning the confirmation hearing 61 136 ff.
- decision by Pre-Trial Chamber 61 110 ff., 118 ff.
- decision confirming the charges **61** 127 ff.
- decision declining to confirm the charges 61 134 ff.
- disclosure procedure 61 47 ff.
- document containing charges 61 29
- drafting history 61 1 ff.
- duration 61 115
- evidence 61 100 ff.
- evidentiary hearing before a Pre-Trial Chamber 61 110 ff.
- evidentiary threshold **61** 120 ff.
- information of the evidence **61** 45 ff.
- place of hearing **61** 117
- presence of the person charged 61 17 ff.
- Prosecutor's obligation 61 25 ff., 86 ff.
- purpose of confirmation procedure **61** 5 ff.
- responsibility after confirmation of charges 61 161 ff.
- rights guaranteed to the suspect 61 25 ff.
- rights of the accused at the hearing 61 96 ff.
- schedule of the hearing 61 111
- setting date 61 12 ff.
- subsequent request for confirmation 61 143 ff.
- summary evidence 61 91
- warrant previously issued 61 154 ff.

Confirmation procedure

- absence of the person charged 61 19 ff.
- presence of the person charged 61 17 ff.
- purpose 61 5 ff.
- setting date for confirmation hearing 61
 12 ff.

Conflicts of law

- Conflicts of Law clause 10 8

- Conscription or enlistment of children and their participation in hostilities 8 785 ff.
- conscripting or enlisting 8 798 ff.
- drafting history 8 785 ff.
- International Labour Organization Convention No. 182 8 788
- knowledge of age 8 801
- national armed forces 8 810
- nexus to armed conflict 8 802 ff.
- UN Convention on the Rights of the Child 1989 8 788
- using children to participate in hostilities 8 805 ff.

Consequences of failure to cooperate 37 38 ff. Content of the decision of the trial 74 65 ff.

Content of the request 96 1 ff.

- applications to the Court 96 16
- consultation of request and advising the Court 96 14 ff.
- form **96** 2
- requirements 96 6 ff.
- urgent cases 96 2

Continuing crimes 11 16 ff.

- human rights instruments 11 17 ff.
- Rome Statute 11 21 ff.

Contributions

- assessment of contributions 117 1 ff.
- voluntary contributions 116 1 ff.

Convention against Torture 7 13, 239

Convention against Transnational Organised Crime 7 223, 272

Conviction of more than one crime 78 20

Cooperation and assistance between the Court and the Dutch authorities 3 32, 32 ff., 48

Cooperation and assistance by international organizations 37 43 ff.

Cooperation and enforcement pursuant Regulations 2004 **52** 37

Cooperation Declaration 123 6

Cooperation other than surrender 93 1 ff.

- assistance in relation to investigations or prosecutions 93 16 ff.
- assistance subject to specified conditions 93
 55 ff.
- assurance not to be prosecuted, detained or subjected to any restriction of personal freedom 93 42
- competing request 93 73 ff.
- confidentiality of documents and information 93 70 ff.
- cooperation with or providing assistance to a State Party 93 76 ff.
- denial of a request for cooperation 93 52 ff.
- evidence taken and production of evidence 93 20 ff.
- examination of places or sites 93 32
- execution of particular measures of assistance 93 43 ff.

- facilitating voluntary appearance 93 27 ff.
- identification of persons, whereabouts and location of items 93 18
- identification, tracing and freezing of proceeds, property and assets and instrumentalities of crime 93 37
- information about denial to cooperate 93 57
- obligation of states to cooperate 93 11 ff.
- preservation of evidence 93 35
- protection of victims and witnesses 93 35
- questioning of persons **93** 24 ff.
- records and documents 93 34
- searches and seizures 93 33
- service of documents 93 26
- subsequent disclosure of documents or information 93 72

Cooperation request 87 1 ff.

- authority to make request 87 4 ff.
- confidentiality 87 23 ff.
- consequences of failure to cooperate 37
- cooperation and assistance by international organizations 37 43 ff.
- dispute regarding legality of a request 37
 51 ff.
- failure to cooperate 87 37, 48 ff.
- finding of a failure to cooperate and its legal consequences 37 53 ff.
- language requirements 87 20 ff.
- obligatory cooperation 87 36
- protection of victims, witnesses and their families 87 26 ff.
- transmission of request 87 4 ff., 19
- Cooperation with respect to waiver of immunity and consent to surrender 98 1 ff.
- Diplomatic immunity of property **98** 14
- Functional immunity 98 22
- non-surrender agreement 98 174
- Personal immunity **98** 84
- request for surrender **98** 157 ff.
- waiver of immunity 98 155
- Cooperation with UN Commission of Inquiry 2 47 ff.

Corporate liability 10 18, 24

Corrupting, impeding or intimidating an official of the Court 70 25

Corrupting, obstructing or retaliating against a witness **70** 19 ff.

Costs of execution of request 100 1 ff.

- costs of expert opinion or report 100 6
- costs of translation, interpretation and transcription 100 4
- costs of transport of persons being surrendered 100 7
- costs of travel, security of witnesses and the transfer of persons 100 3
- extraordinary costs 100 8
- request to the costs 100 9

 travel and subsistence costs of organs and staff of the Court 100 5

Costs of expert opinion or report 100 6

Costs of transfer of person upon completion of sentence 107 10

Costs of translation, interpretation and transcription 100 4

Costs of transport of persons being surrendered **100** 7

Costs of travel, security of witnesses and the transfer of persons **100** 3

Counsel issues and legal assistance 52 31 ff.

Counsel privileges and immunities 48 11 ff.

Counter-terrorist operations **8** 874 ff. Court

- administration 34 et seq.

- appeal and revision 81 et seq.
- composition 34 et seq.
- jurisdiction ratione temporis 11 1 ff.
- legal personality and capacity of the Court 3
 26 ff
- privileges and immunities 48 1 ff.
- relationship to the UN 2 1 ff.
- seat 3 1 ff., 1 ff., 7 ff., 62 14
- structure 39 1

Court alone to decide on appeal or revision 105 7 and 8

Court orders to transfer fines or forfeiture 79 8

Court's Code of Judicial Ethics 46 5, 52 39

Court's obligation to establish principles on reparations 75 10 ff.

Crime committed pursuant to an order 33 16

Crime of aggression 8bis 1 ff.

- Assembly of States 5 45 ff.

- authorization by the Security Council 8bis 80 ff.
- Caroline formula 8bis 72
- continuous crimes of aggression 15bis 27
- definition 5 45 ff.
- domestic jurisdiction 8bis 159 ff.
- drafting history **8bis** 3 ff.
- exercise of jurisdiction 5 27
- for the purpose of this Statute 8bis 14 ff.
- historical development 5 28
- humanitarian intervention 8bis 77 ff.
- intervention upon invitation 8bis 82 ff.
- jurisdiction of Court 5 27 ff.
- jurisdiction of the Court 5 27, 15bis 1 ff., 6, 5
- jurisdiction ratione temporis 15bis 27
- Kampala Review Conference 5 28
- meaning of military action 'of a State' 8bis 43
- meaning of 'act of aggression' 8bis 45
- meaning of 'by a person in a position effectively to exercise control over or to direct the political or military action of a State' 8bis 33 ff.
- meaning of 'by a person' 8bis 35
- meaning of 'crime of aggression' 8bis 17 ff.

- meaning of 'gravity' and 'scale' 8bis 62 ff.
- meaning of in a position effectively to exercise control over or to direct the political or military action' 8bis 36 ff.
- meaning of 'initiation or execution' 8bis 31
- meaning of 'manifest violation' 8bis 65 ff.
- meaning of 'planning, preparation, initiation or execution' 8bis 32 ff.
- meaning of 'preparation' 8bis 28 ff.
- meaning of which, by its character, gravity and scale constitutes a manifest violation of the Charter of the United Nations' 8bis 46 ff.
- nature of the act of aggression 8bis 61
- post-Rome developments 5 30 ff.
- preconditions 5 27
- preventive and pre-emptive self-defence 8bis 70 ff
- ratification or acceptance requirement 15bis
 14
- rescue of nationals abroad 8bis 85 ff.
- role of Security Council 5
- self-defence against non-State actors 8bis 74 ff.
- temporal jurisdiction 15bis 13
- 'responsible to protect' concept **8bis** 78 Crimes against humanity 7 1 ff.
- civilian 7 25
- committed as part of an attack 7.15 ff.
- definition 7 1, 200 ff.
- direction of attack 7 25 ff.
- enforced sterilisation 7 117
- evidence needed 7 30
- genocide 6 34
- historical development 7-3 ff. (
- jurisdiction of Court 5 21 ff.
- knowledge of the attack 7 28
- nature of the attack 7 15 ff.
- population 7 25
- systematic attack 7 21
- widespread attack 7 20

Crimes not included in the Rome Statute 5 1 ff., 14

Cruel treatment 8 908

Cultural heritage 8 405 ff.

Cultural property 8 405 ff.

definition 8 405 ff.

Cultural property under special protection 8 404

Cultursal heritage

- definition 8 405 ff.

Customary international law **10** 7, 17–18 Customary international law principles **21** 30

D

Decision adjourning the confirmation hearing **61** 136 ff.

Decision confirming the charges in the confirmation hearing **61** 127 ff.

Decision declining to confirm the charges in the confirmation hearing **61** 134 ff.

Decision of the Court on reparation 75 17 ff. Decisions by the Trial Chamber 74 1 ff.

- alternate judges 74 19 ff.
- basis 74 25 ff.
- content 74 65 ff.
- delivery in open court 74 71
- evidence considered 74 53 ff.
- form 74 65 ff.
- historical overview 74 1 ff.
- majority and minority views 74 70
- presence of the judges at each stage of the trial 74 11 ff.
- secrecy of deliberations 74 61 ff.
- unanimity, majority and minority view 74
 57 ff

Decisive evidence false, forged or falsified leading to revision of conviction or sentence **84** 24

Declaration of war 8bis 104

Declaration on the Elimination of Violence against Women 7 77

Deduction from sentence 78 18 ff.

Default to pay contributions to the Assembly 112-92 ff.

Defence of another person 31 32 ff.

Defence of property 31 32 ff.

Defence teams 2 40

Defences in case of genocide 6 33

Defend oneself in person 67 29

Deferral of investigation or prosecution 16 1 ff.

drafting history 16 2 ff.

investigation 16 12 ff. prosecution 16 12 ff.

- renewal of request 16 25

- time limit **16** 21

Delivery in open court 74 71

Denial of a request for cooperation 93 52 ff.

Department of Peacekeeping Operations 2 37

Department of Political Affairs 2 37

Department of Safety and Security 2 46

Deportation

- Geneva Convention 7 68, 131
- lack of permitted grounds 7 228
- lawful presence 7 227
- prohibited movements of population 7 59 ff.

Deportation and transfer in occuppied territories

- basic rules **8** 268
- elements of crime 8 275 ff., 288 ff.
- war crimes 8 263 ff.

Deportation or forcible transfer of population 7 59 ff.

- Apartheid Convention 7 59, 184 ff., 266 ff.
- crimes against humanity 7 54 ff., 225 ff., 229
- deportation 7 56 ff.
- forcible transfer of population 7 59 ff.

- Guiding Principles of Internal Displacement 7 59
- requirements 7 58

Deporting or transferring all or parts of the population of the occupied territory 8 381 ff.

- elements 8 388 ff.
- exceptions from prohibition 8 393 ff.
- individual transfer 8 392
- normative origin and drafting history 8 382
 Deprivation of civilians 8 763 ff.

Deputy Prosecutor 42 14, 18

Designation of a judge for the preparation of the trial **64** 17

Destroying or tampering with evidence or obstructing its collection **70** 19 ff.

Destruction 8 474 ff., 981 ff.

Detention matters 52 34 ff.

Determination of language of the trial **64** 18 Determination of penalties **77** 1 ff.

- drafting history 77 7 ff.
- fines 77 26 ff.
- forfeiture of proceeds, property and assets derived directly or indirectly from the crime 77 31 ff.
- imprisonment for a certain number of years 77 23 ff.
- purpose of penalty 77 3
- term of life imprisonment 77 24

Determination of the sentence 78 1 ff.

- conviction of more than one crime 78 20
- deduction from sentence 78 18 ff.
- double counting **78** 12
- factors in determining sentence to be imposed 78 14 ff. -
- facts and circumstances described in the charges 78 10
- length of the joint sentence 78 21
- preliminary considerations 78 10 ff.
- standard of proof 78 11

Deviation from standard 30 38 ff.

Diplomatic immunity of property 98 14

Disciplinary measures against members of the Court 47 1 ff.

- elements 47 3 ff.
- type of measures 47 4

Disclosure in confidence 73 9 ff.

Disclosure of documents or information in the trial 64 19

Disclosure of documents or information of a State 72 3

Disclosure procedure 61 47 ff.

- admissibility challenge 61 50
- begin 61 49
- communication of evidence 61 74
- language 61 54 ff.

Discontinuance of appeal 83 48

Discontinuation of investigation 15 34 ff.

Discretion of determination jurisdiction 19 9 ff.

Dispute regarding legality of a cooperation request 37 51 ff.

Disqualification of a judge 41 6 ff.

- competency to request disqualification 41 11
- key principles considering disqualification 41 16 ff.

Disqualification of Prosecutor 43 29 ff.

Disruption of trial 63 61 ff.

Divisions of the Court 39 1

assignment to the divisions 39 2

Doctrine of implied powers 4 14

Documents in support od appeal 83 60

Double counting 78 12

Drug trafficking

- jurisdiction of Court 5 10 ff.

Duress 31 46 ff.

Duties and powers of the Prosecutor 54 1 ff.

- appropriate measures to ensure effective investigations 54 12
- discretion 54 7 ff.
- drafting history 54 4 ff.
- establishing the truth 54 8 ff.
- power to investigate of the territory of states 54 16 ff.
- prosecutorial powers 54 27 ff.
- respect of person's rights 54 15

Duty Counsel 34 11

Duty to establish jurisdiction 19 4 ff.

Е

East Timor 10 21

ECCC 10 21

Effect of a decision on reparation 75 28
Effective control standard re act of aggression 8bis 92

Election procedure 36 11 ff.

- gender balance 36 12

Elements of crime 9 1 ff., 11 ff.

- adoption 9 35
- amendments 9 36
- causation 9 23 ff.
- circumstances 9 17 ff.
- conduct 9 14 ff.
- consequences 9 20 ff.
- inferring knowledge 9 27
- intent 9 26 ff.
- intent as to conduct and consequences 9 29
- interpretation 9 32 ff., 10 1 ff., 14 ff.
- knowledge of consequence 9 28
- knowledge of the causation 9 30
- material elements 9 13 ff.
- mental elements 9 25 ff.
- nullum crimen sine lege principle 9 1 ff.
- proposal amendments 9 37 ff.

Employing gases and analogous liquids, materials or devices **8** 571 ff.

- biological weapons 8 587 ff.
- chemical weapons 8 574 ff.
- drafting history 8 571 ff.
- elements 8 574 ff.

Employing poison or poisoned weapons 8 565 ff.

Employment of annexed means or methods of warfare 8 600 ff.

Enemy property 8 492 ff.

- extent of property protected 8 494 ff.

Enforced disappearance of persons

- arrest, detention or abduction of persons 7 182, 257, 272, 273 ff., 278
- crimes against humanity 7 62 ff., 144, 178 ff., 248, 272 ff.
- historical development 7 62 ff.
- Human Rights Institute of the Paris Bar Association 7 180
- intention to remove from the protection of law 7 276
- Latin American Federation of Associations for Relatives of the Detained-Disappeared 7 180
- participation of State or political organisation 7 274
- prolonged period of time 7 277
- refusal to acknowledge or to give information 7 275

Enforced prostitution 8 699

- crimes against humanity 7 105 ff.
- non-contextual elements 7 107

Enforced sterilisation 8 711 ff.

- actus reus 8 712 ff.
- crimes against humanity 7 117

Enforcement 103 et seq.

- enforcement of fines and forfeiture measures 109 1 ff.
- escape 111 1 ff.

Enforcement cooperation 38 14 ff.
Enforcement of detention measures 3 44 ff.
Enforcement of fines and forfeiture measures 109 1 ff.

Enforcement of sentences of imprisonment **103** 1 ff., **105** 1 ff.

- authority of the sentence 103 16
- change in designation of State of enforcement 104 1 ff.
- conditions of acceptance 103 24
- designation 103 26 ff.
- enforcement agreement 103 19
- equitable distribution 103 20 ff.
- Headquarters Agreement 103 30
- legal status of ICC sentence 103 1 ff.
- limitation on the prosecution or punishment of other offences 108 1 ff.
- mutual information 103 25
- position of the host State 103 29

- primacy 103 7 ff.
- recognition by the State 103 17
- Seat Agreement 103 30
- supervision and conditions of imprisonment 106 1 ff.
- willingness to act as custodian of the ICC 103 18

Enhanced cooperation Pre Part 9 9

- execution of request **99** 35

Enhanced protection 8 405

Enslavement

- components 7 48
- Convention against Transnational Organised Crime 7 223, 272
- crimes against humanity 7 48 ff., 220 ff.
- definition 7 220
- European Convention on Action against Trafficking in Human Beings 7 222
- exhaustiveness of definition 7 221
- historical development 7 48 ff.
- nature 7 49
- Palermo Protocol 7 222 ff.
- scope 7 220
- Slavery Convention 1926 7 50
- Trafficking Convention 7 222
- trafficking in persons 7 222 ff.
- Women's Caucus for Gender Justice 7 223, 242

Entry into force of amendments adopted at Review Conferences 123 12

Entry into force of the Rome Statute 126 1 ff. Error of fact 81 85 ff.

Error of facts and error of laws 32 50 ff.

Error of law 81 56 ff.

Escape 111 1 ff.

Established principles of international law of armed conflict 21 39

Establishment of the Court

- AIDP Draft 1 1
- approval by Assembly of States Parties 2 17 ff.
- Committee on International Criminal Jurisdiction 1 2
- concept of complementarity 1 18
- Draft Relationship Agreement 2 18 ff.
- entry into force 1 6 ff.
- founding propositions 2 5
- functional independence 2 15
- historical development 1 1 ff.
- ILA Draft 11
- ILC Draft Statute 1 3 et seg., 10, 2 3
- independence and authority 2 8 ff., 15
- International Atomic Energy Agency 2 15
- International Tribunal for the Law of the Sea 2 15
- jurisdictional reach 1 12 ff.
- Organisation for the Prohibition of Chemical Weapons 2 15

- permanent institution 1 9 ff.
- Relationship Agreement 2 12 ff., 18 ff., 20 ff.
- relationship to other criminal courts 1 21 ff.
- relationship to the UN 2 1 ff., 3
- Siracusa Draft 14
- subsidiary organs 2 8
- Zuphten Draft 1 3, 10

Ethnic cleansing 6 20

EULEX 1 21

EUROJUST 3 25

European Convention on Action against Trafficking in Human Beings 7 222

European Convention on Human Rights 3 45, 54 ff.

EUROPOL 3 25

Evidence 69 1 ff.

- admission would be unethical and would seriously damage the integrity of the proceedings 69 68 ff.
- authority to request the submission of evidence 69 34 ff.
- evidence collected by State 69 73
- exceptions to life-testimony 69 26 ff.
- facts of common knowledge 69 57 ff.
- fair evaluation of the testimony of a witness 69 49 ff.
- fair trial 69 43 ff.
- historical development 69 1 ff.
- judicial notice of facts of common knowledge 69 58
- oral or recorded testimony of a witness via video or audio technology 69 28, 30
- presentation of documents or written transcripts 69 29
- Presentation of evidence by electronic or other special means 68 19
- Presenting false evidence 70 7
- Preservation of evidence 93 35
- privileged communication 69 55 ff.
- probative value of evidence **69** 41 ff.
- purpose 69 22
- ruling on admissibility or relevance of evidence 69 32, 36 ff., 72
- testimony in person 69 25
- violation casts substantial doubts on reliability 69 67

Evidence of similar conduct 66 31

Evidence taken and production of evidence **93** 20 ff.

Evidentiary threshold in the confirmation hearing **61** 120 ff.

Evolution of the law of war crimes 8 13 ff. Examination of places or sites 93 32

Examination of witnesses 67 37 ff.

Exclusion of jurisdiction over persons under eighteen **26** 1 ff.

- Draft International Criminal Code 26 3
- historical development 26 1 ff., 31 9

- national jurisdiction 26 23 ff.
- person under age of eighteen 26 17 ff.
- reasons 26 11 ff.
- Siracusa Draft 26 4 ff.
- time of the alleged commission of a crime **26** 20 ff.
- Working Group on the General Principles of Criminal Law 26 6
- Zutphen Draft 26 9

Exclusion of responsibility 31 7 ff.

- abandonment 31 8
- exclusion of jurisdiction of persons under the age of eighteen 26 1 ff., 31 9
- mistake of fact 31 10
- mistake of law 31 10
- prescription of law 31 11
- superior orders 31 11

Excusal from presence at trial **63** 71 ff. Excusal from presence at trial due to Public Office **63** 65 ff.

Excuse of Prosecutor 42 23

Excusing and disqualification of judges 41 1 ff.

Execution of particular measures of assistance **93** 43 ff.

Execution of request 99 1 ff., 7

- confidentiality information **99** 36
- costs 100 1 ff.
- enhanced cooperation **99** 35
- procedural wishes by the Court 99 10 ff.
- request for assistance 99 8
- response to the request 99 14
- urgent requests 99 13

Execution while appeal is pending **81** 118 ff., —136 ff., **82** 22 ff.

Exercise of jurisdiction 13 1 ff.

- Ad Hoc Committee proposal 13 6 ff.
- drafting history 13 1 ff.
- Genocide Convention 13 3, 6
- ILC Draft 13 2 ff.
- independent prosecutor 13 20
- Preparatory Committee's Draft 13 9 ff.
- Relationship Agreement between UN and ICC 13 16
- Rome Conference 13 11 ff.
- Security Council referral 13 16 ff.
- State Party referral 13 15
- UN SC Resolution 1593 13 16 ff.

Exercise of jurisdiction over the crime of aggression **15***bis* 1 ff.

- act of aggression determined by SC 15bis 45 ff., 41 42 ff.
- authorisation of investigations by Pre-Trial Division 15bis 51
- crime of aggression 15bis 6, 11
- domestic jurisdiction over the crime of aggression 15bis 55
- drafting history 15bis 2
- exclusion of non-parties 15bis 41 ff.

- independence of the ICC 15bis 53
- information of the UN 15bis 48
- jurisdiction ratione personae 15bis 28 ff.
- jurisdiction ratione temporis 15bis 27
- jurisdictional limitations 15bis 4
- lack of determination by SC 15bis 50
- opting-out option 15bis 28 ff., 34
- Security Council referral 15ter 1 ff.
- Treaty-based aggression-related jurisdiction 15bis 22 ff.

Existing or developing rules

scope 10 18 ff.

Experts privileges and immunities 48 11 ff. Explicitly rejected defences to ICC crimes 31

Extensive destruction and appropriation of property 8 112 ff.

- forms of destruction 8 118
- mental element 8 123 ff.
- scope 8 113 ff.
- specific elements 8 117

Exterrmination

- crimes against humanity 7 44 ff., 212 ff.
- definition 7 44 direction of extermination activities 7 219
- elements 7 212 ff.
- extermination by omission 7 216
- intentional infliction of conditions of life 7
- mens rea 7 217
- non-contextual elements 7 218
- number of victims 7 216

Extradition 102 1 ff.

Extradition or surrender of person upon completion of sentence 107 11 ff.

Extra-judicial activities 49 5 Extraordinary costs 100 8

Facilitating voluntary appearance 93 27 ff. Factors in determining sentence to be imposed 78 14 ff.

Facts of common knowledge 66 30

evidence 69 57 ff.

Failure to cooperate 87 37, 48 ff.

Fair evaluation of the testimony of a witness 69 49 ff.

Fair hearing 67 15

Fair trial 69 43 ff.

False testimony 70 8

Final Act **123** 10

Financial arrangements for non-full-time judges 35 23 ff.

Financial Regulations

- historical development 113 1 ff.
- matters covered 113 4 ff.

assessment of contributions 117 1 ff.

- audit 118 1 ff.
- payment of expenses 114 1 ff.
- voluntary contributions 116 1 ff.

Finding of a failure to cooperate and its legal consequences 37 53 ff.

Fines 77 26 ff.

First Review Conference 123 3 ff., 7

Fitness to stand trial 63 36 ff.

Flag of truce 8 311 ff.

- improper use 8 334

Forced displacement 6 21

Forced movement of civilians 8 964 ff.

Forced pregnancy 8 703 ff.

- crimes against humanity 7 17, 81, 95, 110,
- definition 8 705
- elements 8 709 ff.
- forcible made pregnant 7 247
- intentional 7 248
- unlawful confinement 7 246

Forcible transfer

- intention to permanently displace 7 234
- lack of permitted grounds 7 233
- lawful presence 7 230 ff.
- prohibited movements of population 7 229

Forcibly transferring children 6 28

Forfeiture of proceeds, property and assets derived directly or indirectly from the crime 77 31 ff.

Form and content of the notice of appeal 83

Form of the decision of the trial 74 65 ff.

Free legal assistance 67 32 ff.

Freedom of communication 3 24, 31

Function and powers of the ICC on the territory of any State Party 4 9 ff.

Function and powers of the ICC on the territory of third states 4 9 ff., 12

Functional immunity 27 16, 98 22

Functions and powers of the Trial Cham-

ber 64 1 ff., 6

- aim 64 9 ff.
- attendance and testimony of witnesses 64 32
- confidential information 64 33
- designation of a judge for the preparation of the trial **64** 17
- determination of language 64 18
- disclosure of documents or information 64
- joinder or severance of charges 64 27 ff.
- mandatory status conference 64 15
- production of evidence 64 34 ff.
- protection of the accused, witnesses and victims 64 36
- reference to Pre-Trial Division 64 25 ff.
- Rules of Procedure and Evidence 64 8
- timing of disclosure 64 22
- trial in public 64 38

Funds of the Court and the Assembly of States 115 1 ff., 8

- assessed contributions 115 16
- budget decision 115 9 ff.
- budget document 115 9
- budget period 115 10
- funds provided by the UN 115 17 ff.
- stages and responsibilities in the budget process 115 11 ff.

Funds provided by the UN 115 17 ff.

G

Gender definition 5 45 ff., 7 279 ff.

Gender UN usage 7 282

Gender violence 7 280

General principles of criminal law 22 et seq.

- non-applicability of statute of limitations 29
 1 ff.
- nulla poena sine lege 23 1 ff.

General principles of law derived by the court from national laws of legal systems of the world **21** 40 ff.

Geneva Convention 7 68, 131

Geneva Convention, common article 3 8 881 ff.

- armed conflict not of an international character 8 882 ff.
- cruel treatment 8 908
- murder 8 903 ff.
- mutilations 8 907
- outrages upon personal dignity 8 605 ff.
- passing of sentences and the carrying out of executions without previous judgment 8
 918 ff
- persons protected by the provision 8 893 ff.
- possible offenders **8** 900
- serious violation 8 891 ff.
- taking of hostages 8 916 ff.
- torture 8 909 ff.

Geneva law branch of IHL 8 8

Genocide 6 1 ff.

- acts of genocide 6 19 ff.
- causing serious bodily or mental harm 6
 23 ff.
- contextual elements 6 9 ff.
- crimes against humanity 6 34
- defences 6 33
- definition 6 7 ff.
- ethnic cleansing 6 20
- forced displacement **6** 21
- forcibly transferring children 6 28
- in whole or in part **6** 14 ff.
- individual responsibility **6** 30 ff.
- inflicting conditions of life 6 25
- jurisdiction of Court 5 20
- killing members of the group 6 22
- participation 6 30 ff.
- prevent births 6 26

- protected groups 6 16 ff.
- rape and sexual violence 7 133
- responsibility 6 30 ff.

Genocide Convention 13 3, 6

Grave breaches

- wilful killing 8 77 ff.

Grave breaches torture or inhumane treatment **8** 86 ff.

Greentree process 2 54

Grounds for excluding criminal responsibility **31** 1 ff., 17 ff.

- applicability determined by the Court 31
 61 ff.
- decisive time **31** 19
- defence of another person 31 32 ff.
- defence of property 31 32 ff.
- duress 31 46 ff.
- explicitly rejected defences to ICC crimes 31 13 ff.
- historical development 31 1 ff.
- incapacity 31 20 ff.
- limitation of the capacity defence 31 24 ff.
- non-addressed defences 31 15
- official capacity 31 13
- requirements for exclusion of criminal responsibility 31 32 ff.
- scope 31 1 ff.
- self-defence 31 32 ff.
- sources for exclusionary grounds 31 70 ff.
- Statute of Limitations 31 14
- statutory grounds for excluding criminal responsibility 31 65
- suffering from mental disease or defect 31 -21 ff.

Grounds of appeal 81 66

Guiding Principles of Internal Displacement 7

H

Headquarters Agreement 3 1 ff., 5, 6, 8 ff., 43 ff.

- asylum proceedings 3 52 ff.
- basic principles 3 8 ff., 10 ff.
- competent authority 3 6
- cooperation and assistance between the Court and the Dutch authorities 3 10 ff., 32
- details 3 8 ff.
- detentional measures 3 8, 44 ff.
- ECHR 3 45
- enforcement of detention measures 3 51, 51 ff.
- enforcement of sentences of imprisonment 103 30
- final seat arrangement 3 10
- freedom of communication 3 31
- historical development 3 footnote 21 (reference to 3rd/previous edition), 8
- ICC family 3 48, 48 ff.

- ICC headquarters district 3 14
- ICC premises 3 16 ff., 38 ff.
- ICTY Host Arrangements 3 footnote 21 (reference to 3rd/previous edition), 9
- immunities of personnel 3 11, 25
- interim solution 3 10, 10 ff.
- inviolability of premises 3 17, 29
- jurisdictional immunity of the Court 3 23, 28
- legal personality and capacity of the Court 3
 25, 26
- legal status of counsels, experts and witnesses 3 1 ff., 55, 43
- mandating clause 3 34 ff.
- obligation incumbent on host 3 43
- privileges and immunities 3 45 ff., 49, 49
- purpose and scope 3 25
- security and operational assistance 3 32
- settlement of disputes 3 34 ff.
- Special Court for Sierra Leone 3 50
- transit arrangements 3 42 ff.
- visas, permits and other documents 3 42, 42 ff.
- waiving of immunities, privileges 3 28, 49
 Hearing proceedings on appeal 83 5, 43, 48, 56, 70, 85

Host Arrangement 3 8 ff.

- instruments concerning the seat 3 14, 14 e sea.
- relation to Headquarters Agreement 3 8, 25

Host State Agreement

competent authority 3 6

Human Rights Institute of the Paris Bar Association on enforced disappearance of persons 7 180

Humanitarian assistance mission 8 225 ff.

 UN Convention on the Safety of United Nations and Associated Personnel 8 226
 Humanitarian intervention 8bis 77 ff.

I

ICC family 3 48, 48 ff.

- third parties 3 48

ICC headquarters district 3 14

ICC jurisdiction

offences against the administration of justice 70 28 ff.

ICTR 10 21

ICTY 10 21

ICTY Host Arrangements 3 9, 10

Identification of persons, whereabouts and location of items **93** 18

Identification, tracing and freezing of proceeds, property and assets and instrumentalities of crime **93** 37

ILA Draft 1 1

ILC Draft Statute 1 3 ff., 10, 2 3

Immunities granted by Non-Party-States 27 6 Immunities of personnel of the Court 3 11 Immunities or special procedural rules **27** 26 Immunity

- Functional immunity 98 22
- Personal immunity 98 84
- Waiver of immunity **98** 155

Impartial conduct of trial **67** 16 ff. Impartiality of Prosecutor **43** 24 ff.

Imprisonment

- crimes against humanity 7 67 ff.
- definition 7 67
- severe imprisonment 7 67
- test to be applied 7 67
- unlawfulness of imprisonment of civilians 7
 68

Imprisonment for a certain number of years 77 23 ff.

Imprisonment or other severe deprivation of physical liberty 7 65 ff.

UN Working Group on Arbitrary Detention 7 66

Improper use of distinctive signs 8 308 ff.

- elements **98** 11 ff., 48
- improper use of signs of the Geneva Conventions **8** 355 ff.
- improper use of signs of the UN 8 349 ff.
- improper use of signs of the adversary 8 340 ff.

Improper use of signs of the Geneva Conventions 8 355 ff.

Improper use of signs of the UN 8 349 ff. Incapacity 31 20 ff.

Independence of judges 40 1 ff., 11 ff.

Independence of the Court

- exercise of jurisdiction over the crime of aggression 15*bis* 53
- Security Council referral 15ter 9

Independent Oversight Mechanism 112 13, 59 ff.

Independent Prosecutor 13 20

Individual criminal responsibility

- incitement to commit genocide 25 43 ff.
- indirect co-perpetratorship 25 17
- intention aiming at furthering the criminal activity or criminal purpose of the group 25 43
- intentional contribution 25 38
- joint indirect perpetratorship 25 17
- knowledge of the intention of the group 25
 42
- leadership clause 25 54
- meaning of 'orders, solicits or induces' an (attempted) crime 25 22 ff.
- objective contribution to the (attempted) commission 25 37
- perpetration **25** 7 ff.
- perpetration by means 25 11 ff.
- principle 25 4
- protective duty 25 61

- purpose of facilitating 25 34
- purpose of facilitating aids, abets or otherwise assists 25 24 ff.
- soliciting a crime 25 23

Inflicting conditions of life 6 25

Information about denial to cooperate 93 57

Information about the charge 67 19 ff.

Information from States Parties 73 13 ff.

Information from states, intergovernmental

and international organizations 73 12 Information required if investigations are discontinued 15 35, 37

- crimes against humanity 7 188 ff., 267 ff.
- definition 7 267

Inhuman treatment 8 95 ff.

Inhumane treatment 8 95 ff.

- actus reus of inhumane treatment 8 97
- grave breaches 8 86 ff.
- inhumane treatment 8 95 ff.
- specific elements of torture 8 88
- torture 8 87 ff.

Initial proceedings before the Court 60 1 ff.

- drafting history **60** 2 ff.
- grounds for detention **60** 6 ff.
- periodical review of PTC's ruling 60 13 ff.
- rights of the accused 60 4 ff.
- time length of detention 60 18 ff.
- time period for review 60 15
- warrant of arrest to secure attendance of released person 60 23 ff.

Initiation of investigation 53 1 ff.

- conclusion of investigations 53 35 ff.
- discretion **53** 6, 55 ff.
- discretion of Pre-Trial Chamber 53 45 ff.
- elements to be considered by Prosecutor 53
 23 ff.
- information submitted to the Prosecutor 53
 7 ff.
- interest of justice 53 26
- reasonability test 53 10
- reasonable basis for belief 53 14

Intentionally directing attacks against civilian objects **8** 210 ff., 484, 985

Intentionally directing attacks against protected buildings **8** 399 ff.

Intentionally launching an attack in the knowledge of its consequences to civilians or to the natural environment 8 244 ff.

Interlocutory decision re revision of conviction or sentence 84 12

Internal disturbances and tensions **8** 884, 924 ff.

International Atomic Energy Agency 2 15
International Centre for Transitional Justice 2

International cooperation

offences against the administration of justice 70 31 ff.

International cooperation and judicial assistance **86** et seq.

- availability of procedures under national law 88 1 ff.
- concept and forms Pre Part 9 2
- consultation with the Court 97 1 ff.
- cooperation with respect to waiver of immunity and consent to surrender 98 1 ff.
- enhanced cooperation Pre Part 9 9
- importance Pre Part 9 1
- obligation to cooperate 86 1 ff.
- postponement of execution of a request in respect of an admissibility challenge 95 1 ff.
- postponement of execution of a request in respect of ongoing investigation or prosecution 94 1 ff.

International humanitarian law (IHL) relating to war crimes 8 2, 4 ff.

- existence of an armed conflict 8 27 ff.
- fundamental principles 8 10
- Geneva law branch of IHL 8 8
- Geographical Scope 26
- Hague law branch of IHL 8 11
- limits **8.** 9
- nexus to armed conflict **8** 37 ff.
 - overapplication 8 6
- principle of distinction 8 10
- scope 8 6 ff.
- threshold of non-international armed conflict 8 31

International Tribunal for the Law of the Sea 2

Internationally recognized human rights 10 28 Interpretation

- Interpretation Clause 10 7

Interpretation clause 10 7

Interpretation of elements of crime **10** 1 ff., 14 ff.

Interpreter 67 41 ff.

Intervention upon invitation 8bis 82 ff.

Intoxication 31 26 ff.

- nature **31** 29
- state 31 28
- voluntary 31 30

Inviolability of premises of the Court **3** 17, 29 Irregular forces **8***bis* 144 ff.

- armed bands, groups, irregulars or mercenaries 8bis 150 ff.
- carrying out grave acts of armed forces 8bis
 154
- indirect aggression 8bis 144
- irregulars 8bis 151
- meaning of 'sending irregular forces' 8bis 145 ff.
- mercenary 8bis 152
- recruitment, use, financing and training of mercenaries 8bis 152
- substantial involvement 8bis 155 ff.

Irrelevance of immunity ratione materiae 27 16 ff.

Irrelevance of official capacity 27 1 ff.

- barring the Court from exercising jurisdiction 27 27
- customary international law 27 16, 23 ff.
- equal application 27 17 ff.
- exception 27 21
- functional immunity 27 16
- historical development 27 8 ff.
- immunities granted by Non-Party-States 27 6
- immunities or special procedural rules 27 26
- irrelevance of immunity ratione materiae 27
 16 ff.
- mitigation of sentence 27 22
- non-exhausted list of examples for official capacities 27 19

ius in bello 8 4

J

Joinder or severance of charges **64** 27 ff. Joint indirect perpetratorship **25** 17 Judges

- age of nominee 36 8
- competency to request disqualification 41 11
- continuation of office 36 14
- disqualification of a judge 41 6
- election 36 1 ff.
- excusing and disqualification 41 1 ff.
- extra-judicial activities 49 5
- key principles considering disqualification 41 16 ff.
- meaning 40 6
- nomination 36 1 ff. \square
- number **36** 1 ff.
- pensions 49 8
- qualification 36 3 ff.
- request for excusal 41 7
- salaries, allowances and expenses 49 1 ff.
- solemn undertaking 45 1 ff.
- term of office 36 13 ff.

Judgment in the absence in appeal proceedings 83 41 ff.

Judicial functions 38 16

Judicial notice of facts of common knowledge **69** 58

Judicial replacements 37 13 ff.

Judicial vacancy 37 1 ff.

- advent of a vacancy 37 2 ff.
- judicial replacements 37 13 ff.
- procedure for filling a vacancy 37 6 ff.
- Procedure for the Nomination and Election of Judges of the Court 37 7, 14, 38 ff.
- term of office of judges filling vacancies 37
 16 ff.

Jurisdiction of the Court

- crime of aggression 5 27 ff.
- crimes against humanity 5 21 ff.

- drug trafficking 5 10 ff.
- genocide 5 20
- mercenarism 5 13
- State referral 15bis 1 ff.
- terrorism 5 4 ff.
- treaty crimes 5 1 ff.
- war crimes 5 24 ff.

Jurisdiction ratione personae 15bis 28 ff.

- drafting history 11 3 ff.
- entry into force for particular States 11 28 ff.
- principle of non-retroactivity 11 4 ff.

Jurisdiction ratione temporis 11 1 ff., 15*bis* 27 Jurisdictional immunity of the Court 3 23, 28

K

Kampala Declaration 123 6 KSC 1 21, 10 21

L

Language of the Court

- authorization adequately justified 50 16
- authorization of languages other than English and French 50 15
- drafting history **50** 2
- fundamental issues 50 7 ff.
- official and working languages 50 1 ff., 10 ff.
- official languages 50 4 ff.
 - request for translation 50 17

Language requirements in cooperation request 87 20 ff.

ager weapons

Laser weapons

international armed conflict 828 ff.

Latin American Federation of Associations for Relatives of the Detained-Disappeared 7 180

Law of armed conflict 8 4

Lebanon 1 16

Legal assistance for persons during investigation 55 13

Legal status and powers of the Court 4 1 ff., 4 ff.

- doctrine of implied powers 4 14
- function and powers on the territory of any State Party 4 9
- function and powers on the territory of third states 4 12 ff.
- functional limitation 4 6 ff.
- ILC Draft Statute 4 1
- international legal personality 4 4 ff.
- powers and functions through subsequent treaties 4 15
- powers through customary law 4 16
- reparation opinion 4 5
- Security Council referring situations 4 12

Legal status of counsels, experts and witnesses 3 1 ff., 55, 55 ff.

Legal status of ICC sentence 103 1 ff.

Legislative decisions by the Assembly 112

Length of the joint sentence 78 21

Libya 1 18

Limitation of the capacity defence 31 24 ff. Limitation on the prosecution or punishment of other offences 108 1 ff.

Limiting or prejudicing 10 20 ff.

Limiting or prejudicing in any way

- interpretation 10 20 ff.

Listed offenses 8 3, 44 ff., 52 ff.

M

Majority and minority views of trial judges 74 70

Majority requirements in the Assembly 112 85 ff.

Mandatory status conference **64** 15 Manifestly unlawful order **33** 30 ff.

Martens Clause 10 10

Material elements 30 33 ff.

- contextual elements 30 36
- hybrid elements 30 35
- juridictional requirements 30 37
- legal evaluations 30 33
- normative evaluation 30 34

Medical, psychiatric or psychological examination of the accused **64** 40

Memorandum of Understanding 2 43 ff.

- Department of Safety and Security 2 46
- UN ICTY Judicial Database 2 46
- United Nations Office on Drugs and Crime 2 44

Mental element 30 1 ff.

- awareness of consequences **30** 27
- awareness of existing circumstances 30 25
- conduct 30 17 ff.
- criminal responsible and liable for punishment 30 5
- default rule 30 14
- deviations from default rule 30 1
- historical development 30 1
- intent 30 9 ff.
- knowledge 30 9 ff.
- material element 30 6, 33 ff., 20 ff.
- meaning of 'committed' 30 7 ff.
- protected values 30 4
- purpose 30 4
- scope **30** 3

Mercenarism

- jurisdiction of Court 5 13

MICT 1 21, 10 21

Military occupation 8bis 115 ff.

MINUSMA 2 40, 44

Mistake of fact 31 10, 32 1 ff., 20 ff.

- conceptual consequences 32 24
- descriptive and normative material elements 32 21
- legal consequences 32 26 ff.
- perception 32 25
- value judgment 32 22

Mistake of fact or mistake of law 32 1 ff.

- collateral damage 32 51 ff.
- conceptual framework 32 13 ff.
- contempt of court 32 45 ff., see also Sanctions for misconduct before the Court
- core crimes **32** 43 ff.
- difference between mistake of fact and mistake of law 32 15
- error and lack of awareness 32 19
- error of facts and error of laws 32 50 ff.
- historical development 32 1 ff.
- scope of practical importance 32 42 ff.

Mistake of law 31 10, 32 1 ff., 29 ff.

- aspects to be mistaken **32** 30
- knowledge 32 34
- legal consequences 32 36 ff.
- mistaken legal evaluation 32 35

Mitigation of sentence 27 22

Mixed errors of fact and law 81 66

More favourable law 24 54 ff.

Murder as crime against humanity 7 32 ff., 44 ff., 77, 141,

- historical development 7 32 ff.
- mental element 7 33

Mutilations

N

National prosecution

- offences against the administration of justice **70** 37 ff.

Nationality of the accused as a precondition to the exercise of jurisdictions 12 18

Ne bis in idem 20 1 ff.

- crimes covered 20 27 ff.
- decision by any other national or international court **20** 25 ff.
- drafting history 20 2 ff., 18 ff.
- European Union law **20** 12
- exception to the 'ne bis in idem' principle **20** 30 ff.
- international law 20 13
- judicial guarantee 20 51
- meaning of 'convicted or acquitted by the Court' 20 29
- national legal systems 20 8
- offences against the administration of justice 20 57
- principle of deduction 20 53
- protected interests 20 5 ff.
- regional multilateral treaties 20 11
- relevance of genuine enforcement of sentences **20** 54 ff.
- requirements 20 20 ff.
- violation of the 'ne bis in idem' principle 20
 50

New evidence in revision of conviction or sentence **84** 1, 7, 13, 16 ff., 22 ff., 26,32, 25

New York Liaison Office 2 34

Nomination procedure 36 9 ff.

- Advisory Committee 36 10

Non International Armed Conflict 8 30 ff.

- treshholds 8 30

Non-retroactivity principle 11 4 ff.

Non-retroactivity ratione personae 24 1 ff.

- acts and omissions prior to the entry into force 24 29 ff.
- change in the law 24 36 ff.
- continuing violations **24** 30–32
- historical development 24 20-21
- moment of occurrence 24 34
- more favourable law 24 54 ff.

Non-States Parties refusing to consent 73 15 ff. Non-States Party acceptance as a precondition to the exercise of jurisdictions 12 19

Non-surrender agreement 98 174

Notification to victims and their legal representation **68** 45

Nuclear weapons 8 590

Nulla poena sine lege 23 1 ff.

Nullum crimen sine lege 9 1 ff., 22 1 ff.

- aggression 22 58 ff.
- ambiguity 22 45 ff.
- application to treaty crimes 22 53 ff.
- crime within the jurisdiction of the Court 22 34
- criminal responsibility 22 29 ff.
- definition of crime 22 35 ff.
- elements 22 29 ff.
- extension by analogy 22 39 ff.
- historical development 22 2 ff.
- principle of international law 22 15, 48 ff.
- purpose 22 9 ff.
- scope **22** 14 ff.
- sources 22 24 ff.
- terrorism 22 58 ff.

O

Obligation of states to cooperate **93** 11 ff. Obligatory cooperation **87** 36 Offences against the administration of justice **70** 1 ff.

- corrupting, impeding or intimidating an official of the Court 70 25
- corrupting, obstructing or retaliating against a witness 70 19 ff.
- destroying or tampering with evidence or obstructing its collection 70 19 ff.
- drafting history **70** 3 ff.
- false testimony 70 8
- ICC jurisdiction 70 28 ff.
- international cooperation 70 31 ff.
- measures by the Court 70 33
- national prosecution 70 37 ff.
- penalties 70 33 ff.
- presenting false or forged evidence 70 12

- retaliating against an official of the Court 70
 11
- solicitation or acceptance of a bribe by an official of the Court 70 27
- submission to competent State authorities 70 40

Office of Public Counsel for the Defence **34** 11 ff.

Office of the High Commissioner for Human Rights under the Relationship Agreement between Court and UN 2 37

Office of the Prosecutor 34 7, 11

Office of the Public Counsel for Victims 68

Onus of proof 66 18 ff.

Opt-out declaration 15bis 28 ff., 36

- addressees 15bis 38
- breadth of declaration 15bis 37
- obligation to withdraw 15bis 40
- scope ratione personae 15bis 36
- temporal context 15bis 37
- timing and effects 15bis 37
- timing of withdrawal 15bis 39
- withdrawal 15bis 39 ff.

Oral or recorded testimony of a witness via video or audio technology evidence 69 28, 30 Order by Government or of a superior 33

Order by military or civilian authorities 33 22

Order in the trial 64 51

Orders on reparation directly against a convicted person 75 19 ff.

Ordinary cultural property 8 404

Organisation for the Prohibition of Chemical Weapons establishment of the Court 2 15

Organs of the Court 34 3 ff.

- number of judges 36 1
- Pre-Trial Division 34 6 ff.
- Trial Division 34 6 ff.

Other serious violations of the laws and customs applicable in armed conflicts not of an international character 929 ff.

- armed conflict taken place in the territory of a State 8 1004 ff.
- asphyxiating, poisonous or other gases, and all other analogous liquids, materials or devices 8 994 ff.
- attacks against cultural objects, places of worship and similar institutions 8 946
- attacks against the civilian population 8
 931 ff.
- attacks against UN and associated personnel 8 938 ff.
- bullets which expand or flatten 8 996 ff.
- destruction 8 981 ff.
- forced movement of civilians 8 964 ff.
- internal disturbances and tensions 8 1003 ff.
- perfidy 8 973 ff.

- physical mutilations 8 979 ff.
- pillage 8 948
- poison or poisoned weapons 8 983
- possible parties to the conflict 8 1111 ff.
- prohibited weapons in non-international armed conflict 8 991 ff.
- protracted armed conflict 8 1006 ff.
- quarter 8 977
- rape and other forms of sexual violence 8
 951 ff.
- recruitment of children 8 956 ff.
- scope 8 1002 ff.

Outrages upon personal dignity 8 644 ff. Outside activities of Prosecutor 42 20 ff. Oversight Committee 112 59

P

Palermo Protocol 7 222 ff.
Parachuting from an aircraft 8 298
Participation of Court organs in the Assembly 112 78

Payment of expenses 114 1 ff.
Peace Conference Report 1919 7 32, 59, 74,
Peace enforcement mission 8 233

Peacekeeping mission 8 229 ff.

Penalties 77 et seq.

- non-prejudice to national application of penalties 80 1 ff.
- offences against the administration of justice 70 33 ff.

Pensions of judges 49 8

Perfidious killin or wounding 8 437 ff.

Perfidious killing or wounding

- normative origin and drafting history 8 437
- principle 8 441
- treacherous 8 442

Perfidy 8 447 ff.

- permitted ruses of war 8 450

Perpetration 25 7 ff., 11 ff.

- co-perpetration 25 8 ff., 17
- indirect co-perpetratorship 25 17
- joint indirect perpetratorship 25 17
- meaning of 'orders, solicits or induces' an (attempted) crime 25 22 ff.
- perpetration by means 25 12 ff.
- soliciting a crime 25 23

Persecution

- acts against property 7 258, 260 ff.
- acts causing physical or mental harm 7 53
- crimes against humanity 7 141 ff.
- definition 7 141 ff., 143, 252
- discriminatory intent 7 262
- grounds for persecution 7 154 ff.
- infringement on freedom 7 253
- intentional and severe deprivation of fundamental rights 7 253 ff.
- objects of persecution 7 145 ff.

Personal qualification of Prosecutor 42 15

Persons having no longer any means of defence 8 289

Persons hors de combat 8 267 ff.

Persons 'in the power' of the adversary party to the conflict **8** 291

Physical mutilations 8 426

physical mutulation 8 419 ff.

Pillage 8 539 ff.

Place of trial 62 1 ff.

- drafting history 62 5 ff.
- scope of application **62** 20
- seat of the Court 62 14

Plea agreements 65 42 ff.

Plea guilty 64 42

Poison or poisoned weapons 8 993

Post surrender release 89 26

Post-conviction 76 10, 77 ff.

Postponement of execution of a request in respect of an admissibility challenge 95 1 ff.

Postponement of execution of a request in respect of ongoing investigation or prosecution **94** 1 ff.

Power of presiding judge 64 43 ff.

Powers and functions through subsequent treaties 4 15

Powers of the Appeals Chamber 83 1 ff., 16 ff. Powers through customary law 4 16

Precedents 21 51 ff.

Preconditions to the exercise of jurisdic-

tions 12 1 ff.

- Bureau Compromise 12 12
- drafting history 12 1 ff.
- German proposal 112 6 ff.

- ILC Draft 12 3 ff.

- jurisdiction over crimes 12 13
- Korean proposal 12 8
- nationality of the accused 12 18
- non-State Party acceptance 12 19
- Preparatory Committee's Draft 12 4 ff.
- Rome 1998 options 12 5 ff.
- State acceptance 12 14
- State 'opt-in' and 'case-by-case' proposal 12
 11
- territorial jurisdiction 12 15 ff.
- UK proposal 12 9
- US proposal **12** 10

Preliminary examination 15 35

Preliminary rulings regarding admissibility 18 1 ff.

- appeal against the decision of the Pre-Trial Chamber 18 56 ff.
- appeal on expedited basis 18 57
- challenge of the admissibility of a case 18
- confidential basis 18 39
- drafting history 18 1 ff.
- effect of the decision pending appeal 18 59
- historical development 18 1 ff.

- meaning of 'reasonable basis' 18 22
- notification requirement 18 24
- periodical information of the Prosecutor 18
 61
- preserving evidence 18 62
- Pre-Trial Chamber's authorization of investigation 18 24
- Prosecutor's deferral to state's investigation 18 44
- purpose 18 10
- review of state's investigations 18 52 ff.
- scope 18 11
- source of the rule 18 14

Prescription of law 31 11

Presence at trial 63 1 ff., 67 28

- absconded accused 63 93
- disruption of trial 63 61 ff.
- drafting history 63 2 ff.
- ex parte proceedings 63 96 ff.
- excusal from presence at trial 63 71 ff.
- excusal from presence at trial due to Public Office 63 65 ff.
- fitness to stand trial 63 48
- pre-trial proceedings 63 12
- principle of presence of the accused at trial **63** 1 ff., 4 ff., 16
- refusal to attend 63 60, 88 ff.
- requirement of attendance at trial 63 71 ff.
- video link **63** 36, 39, 46

Presence of a counsel during investigation 55 15

Presentation of documents or written transcripts **69** 29

Presidency 34 3 ff., 35 15 ff., 38 1 ff.

- acting as administrative tribunal 38-17
- acting as criminal court 38 18
- acting in place of the President 38 4
- administration scheme of the Court 38 11
- composition of Presidency 38 5
- duties 38 6 ff.
- election 38 1 ff.
- enforcement cooperation 38 14 ff.
- external relations and cooperation 38 12 ff.
- general cooperation 38 13
- judicial functions 38 16
- purpose 34 4 ff.
- relationship between Presidency and Prosecutor 38 8 ff.
- task 35 16

Presidency's oversight

- oversight of judicial proceedings 38 20 ff.
- oversight of organisation and work of Chambers 38 21 ff.

Presonal immunity 98 84

Presumption of innocence 66 1 ff.

- definition 66 10 ff.
- evidence of similar conduct 66 31
- historical development 66 1 ff.

- judicial notice of facts of common knowledge 66 30
- onus of proof 66 18 ff.
- provisional release 66 32 ff.
- reasonable doubt 66 24 ff.

Pre-Trial Chamber's exercise of discretion 15 29 ff.

Pre-Trial Chamber's function and powers 57 1 ff.

- assistance for arrested persons 57 18 ff.
- authorization of Prosecutor to investigate in the territory of a State Party 57 36 ff.
- decision of powers 57 6
- drafting history 57 1 ff.
- exercise by a single judge 57 8 ff.
- exercise of functions 57 5
- orders and rulings by a majority 57 7
- orders and warrants for investigations 57 12 ff.
- preservation of evidence 57 31
- protection and privacy of victims and witnesses 57 28
- protection of national security information 57 30
- protection of persons arrested 57 29
- protective measures for the purpose of forfeiture 57 44 ff.

Pre-Trial Chamber's investigatory measures **56** 1 ff.

- admissibility of evidence 56 30

- decision on measures prorio motu 56 23 ff.

 decision on measures upon request of the Prosecutor 56 11 ff.

- duty to inform the Pre-Trial Chamber 56 6 ff.

- duty to inform the suspect 56 14
- measures 56 15 ff.

Pre-Trial Division 34 6 ff., 8

Prevent births 6 26

Principle of deduction 20 53

Principle of distinction 8 10

Principle of equitable distribution 103 20 ff.

Principle of precedent 81 76 ff.

Principle of presence of the accused at trial 63 1 ff., 4 ff., 16

Principle of proportionality 8 10

International Humanitarian Law (IHL) relating to war crimes 8 10

Principles of international law 21 28 ff.

Privileged communication **69** 55 ff.

Privileges and immunities 48 1 ff., 4 ff.

- counsel, experts, witnesses and others 48
 11 ff.
- court **3** 49
- drafting history 48 1 ff.
- functional immunity 48 13
- Headquarters Agreement 3 11 ff., 45 ff., 48 4

- Relationship Agreement between Court and UN 2 31
- scope of immunities 48 9
- staff 48 10
- waiver 48 14 ff.
- waiving of immunities, privileges 3 49
 Probative value of evidence 69 41 ff.

Procedural errors **81** 17, 27, 45, 54, 56 ff., 112 Procedure for filling a vacancy **37** 6 ff.

Procedure for the Nomination and Election of judges of the Court 37 3, 7, 14

Proceedings before the Court

- confirmation of the charge before trial **61** 1 ff.
- Regulations 2004 **52** 30

Proceedings in camera 68 19

Proceedings on admission of guilt 65 1 ff.

- admission accompanied by facts 65 29 ff.
- conviction according to an admission of guilt 65 33 ff.
- drafting history **65** 1 ff.
- invalid admission of guilt 64 35 ff.
- plea agreements **64** 40 ff.
- presentation of facts in the interest of justice 64 37 ff.
- understanding nature and consequences of admission 65 22 ff.
- valid admission of guilt 65 14 ff.
- voluntary admission after consultation with counsel 65 28

Proceedings on appeal 83 1 ff., 67 ff.

- discontinuance of appeal 83 48
- documents in support of appeal 83 60
- form and content of the notice of appeal **83** 49.51
- hearing **83** 5, 43, 48, 56, 70, 85
- judgment 83 6, 22, 28, 34 ff., 41 ff. 44, 48,
- judgment in the absence **83** 42
- powers of the Appeals Chamber 83 1 ff., 16 ff.
- reasoning of judgment 83 6, 9, 13, 39
- reformatio in peius **83** 31 ff.
- remedies with regard to sentencing 83 2, 7, 10, 23, 44
- reply 83 58 ff.
- separate and dissenting opinions 83 34 ff.
- standard of review 81 38 ff., 85 ff., 83 2, 6, 9 ff., 18 ff.
- time limit for appeal 83 48 ff., 52, 57, 85
- variation of grounds of appeal 83 85
- victim participation 83 60 ff.

Production of evidence in the trial **64** 34 ff.

Prohibited attacks against persons hors de combat 8 268 ff.

- killing or wounding 8 300 ff.
- mens rea 8 303 ff.

Prohibited deportations and transfers in occupied territories 8 363 ff.

Prohibited destruction **8** 474 ff. Prohibited weapons **8** 555 ff.

- biological weapons 8 587 ff.
- bullets 8 591 ff.
- chemiclal weapons 8 574 ff.
- gases and analogous liquids , materials or devices 8 571 ff.
- nuclear weapons 8 590
- poison or poisoned weapons 8 565 ff.
 Prohibition of physical mutilation 8 419 ff.
 Prohibition of retroactive penalties 23 1
 Prohibitions regarding rights and rights of action 8 504 ff.

Proprio motu

- determination 19 6 ff.
- prosecutor 15 11

Prosecution deferral 16 1 ff.

Prosecutor 15 1 ff., 42 1 ff.

- adviser 43 32 ff.
- appointment 42 16 ff.
- budget 42 13
- Deputy Prosecutor 42 14, 18
- discontinuation of investigation 15 34 ff.
- disqualification 43 29 ff.
- excuse **42** 23
- functional independence 42 3 ff., 8 ff.
- impartiality 43 24 ff.
- information required if investigations are discontinued 15 35, 37
 - meaning of 'initiate' 15 9 ff.
- meaning of 'investigation' 15 10
- meaning of 'on the basis of information' 15
 12

meaning of 'proprio motu' 15 11

- need to 'seek additional information' 15 14
- obligation at the hearing 61 86 ff.
- obligation to analyse the seriousness of the information received 15 13
 - outside activities **42** 20 ff.
- personal qualification 42 15
- preliminary examination 15 35
- Pre-Trial Chamber's exercise of discretion 15 29 ff.
- procedure for initiating prosecution 15 1 ff.,
 8 et seq.
- proceed with an investigation 15 23
- reasonable basis 15 21
- refusal of the Pre-Trial Chamber to accept
 Prosecutor's request for authorisation 15 33
- removal from office 46 1 ff.
- request for authorisation 15 24
- salaries, allowances and expenses 49 1 ff.
- solemn undertaking 45 1 ff.
- staff 44 1 ff.
- structure of the Office 42 12 ff.
- supporting material 15 25 ff.
- victim representation 15 27 ff.

Prosecutor's independency 42 3 ff., 8 ff.
Protection of national security information 72

- agreement on conditions for disclosure 72
 33 ff.
- amicable resolution of dispute 72 26
- confidentiality 72 22
- consultative process in search for a solution 72 36
- determination of relevance and necessity 72
 37
- disclosure of documents or information of a state 72 3
- information requested from an individual 72 19 ff.
- modification or clarification of the request 72 27 ff.
- national security information 72 8 ff.
- non-disclosure agreement between Prosecutor and state 72 23
- prejudice to national security 72 16
- right of state to intervention in national security cases 72 25
- ruling on relevance or on obtaining from another source 72 31 ff.
- scope of application 72 3

Protection of the accused, witnesses and victims in the trial **64** 36

Protection of victims and witnesses 93 35 Protection of victims and witnesses and their participation in the proceedings 68 1 ff.

- definition of victims 68 35 ff.
- drafting history 68 11
- endangerment of the security of witnesses or their families 68 33
- protection of servants, agents and information 68 34
- scope 68 9
- Victims and Witnesses Unit 68 30 ff.

Protective duty 25 61

Provisional arrest 92 1 ff.

- announcement of a request for surrender 92
 10
- consent to surrender 92 13
- information on person and whereabout 92 7
- no prejudice for subsequent arrest and surrender 92 15
- pending the presentation of the request 92 4
- release from provisional arrest 92 11
- statement on the alleged crimes **92** 8
- statement on the founding decision 92 9
- time limits 92 12
- urgent cases 92 3

Provisional release 66 32 ff.

Public hearing 67 9 ff.

0

Quarter 8 452 ff.

Questioning of persons cooperation other than surrender 93 24 ff.

R

Racism apartheid 7 269

Raise defence 67 39 ff.

Rape and other forms of sexual violence 8 635 ff.

- coercion 7 61, 82, ff., 90 ff., 101 ff., 105, 107, ff., 116 ff.
- crimes against humanity 7 73 ff.
- Declaration on the Elimination of Violence against Women 7 77
- definition 7 73 ff.
- historical development 7 74
- sexual slavery 7 95 ff.
- Vienna Declaration and Programme of Action 7 77
- World Conference on Human Rights 7 77
 Reading of the charges 64 39
 Reasonable doubt 66 24 ff.

Reasoning of judgment proceedings on appeal 83 17

Record of the trial **64** 52

Records and documents 93 34

Recruitment of children 8 956 ff.

Reduction of sentence 110 1 ff.

Referral by a State Party 14 1 ff.

- definition of 'State Party' 14 9 ff.

- drafting history 14 1 ff.

 meaning of 'may refer a situation' 14 21 ff.
 meaning 'of the purpose of determining' 14 36 ff.

Reformation in peius 83 31 ff. Refusal to attend trial 63 60, 88 ff.

Registrar 44 1 ff.

- administrative officer of the Court 43 10
- appointment 43 13
- authority of the President 43 11
- drafting history **43** 1 ff.
- qualifications 43 12
- relationship with Prosecutor 43 8 ff.
- removal from office 46 1 ff.
- responsibilities 43 6 ff.
- salaries, allowances and expenses 49 1 ff.
- solemn undertaking 45 1 ff.
- term of office 43 14

Registry 34 8, 11

Registry's Counsel Support Section 34 12

Regulation of the Court 52 1 ff.

- amendments **52** 17 ff.
- content 52 27 ff.
- hierarchical status **52** 7
- historical development 52 5 ff.
- majority requirement 52 9
- objections by States Parties 52 22 ff.
- participation of Prosecutor and Registrar 52
 16

- scope of regulation 52 11 ff.
- time limits to amendments 52 21 ff.
 Regulations 2004
- adoption of the Code of Judicial Ethics 52
 39
- composition and administration of the Court 52 29
- cooperation and enforcement 52 37
- counsel issues and legal assistance 52 31 ff.
- detention matters 52 34 ff.
- general provisions 52 28
- proceedings before the Court 52 30
- removal from office and disciplinary measures 52 38
- victims participation and reparations 52 33Rehabilitation 75 12

Relationship Agreement between Court and UN 2 20 et seq., 54

- administrative and logistical partnership 2
 25
- confidentiality and disclosure 2 51
- content 2 22
- cooperation regime 2 24, 27 ff.
- cooperation with UN Commission of Inquiry 2 47 ff.
- Department of Peacekeeping Operations 2
 37
- Department of Political Affairs 2 37
- exculpatory evidence 2 50
- exercise of jurisdiction 13 16
- Greentree process 2 54
- International Centre for Transitional Justice 2 54
- nature 2 21 | - A (B | (-
- New York Liaison Office 2 34
- Office of Legal Affairs 2 36
- Office of the High Commissioner for Human Rights 2 37
- Office of the Prosecutor 2 30
- privileges and immunities 2 31
- protection of personnel and operations 2 27
- purpose **2** 20
- regular dialogue 2 34 ff.
- relation to Rome Statute 2 50 ff.
- Special Advisers and Special Representatives of the Secretary-General 2 37
- sustainable effect 2 54
- testimony of UN officials 2 28
- UN Children's Fund 2 37
- UN Development Program 2 54
- UN Educational, Scientific and Cultural Organisation 2 38
- UN Women 2 37
- World Food Programme 2 37

Removal from office **46** 1 ff.

- Court's Code of Judicial Ethics 46 5
- drafting history **46** 1 ff.
- grounds 46 7 ff.

- guarantee of due process 46 19 ff.
- procedure for judges and Prosecutor 46
 12 ff.
- procedure for Registrar 46 18 ff.
- UN Basic Principles on the Independence of the Judiciary 46 5

Removal from office and disciplinary measures Regulations 2004 **52** 38

Reparation orders 82 15

Reparation to victims 75 1 ff.

- Court's obligation to establish principles on reparations 75 10 ff.
- decision of the Court on reparation 75 17 ff.
- effect of a decision 75 26
- invitation and account of representation 75
- orders directly against a convicted person 75 19 ff.
- post-conviction hearing 76 10
- rehabilitation 75 12
- rights of victims under national law 75 28
 Reply in appeal cases 83 58 ff.

Request for arrest and surrender 91 1 ff.

- consultation with the Court upon its request 91 22 ff.
 - copy of the warrant 91 11
- information on person and whereabout 91 9
- necessary documents, statements or information 91 12 ff.
- persons already convicted 91 16 ff.
- request in urgent cases 91 6
- request in writing **91** 5
- requests with warrants by the Pre-Trial Chamber 91 8

Request for surrender 98 157 ff.

Request to the costs 100 9

Rescue of nationals abroad **8bis** 85 ff. Reservation

- Reservation Clause 10 11
- Reservations to the Rome Statute 120 1 ff.
- historical development 120 1 ff.
- interpretative declarations 120 18
- meaning of reservations 120 17
- purpose 120 10 ff.
- scope **120** 15

Responsibility of commanders and other superiors **28** 1 ff.

- aggression 28 37
- attempts and incitement 28 36
- categories of persons falling under the doctrine of command responsibility 28 22 ff.
- causation 28 38 ff.
- customary international law 28 88 ff.
- definition of military commander 28 22 ff.
- effective command and control 28 26 ff.
 - historical development 28 1 ff.
 - meaning of armed forces 28 25
 - mental element 28 52 ff.

- nexus between commander's failure and crime 28 38 ff.
- practical importance 28 4
- quasi-commanders 28 24 ff.
- superior and subordinate relationship 28 22 ff.

Responsibility of war criminals **8** 14
Responsible to Protect concept **8bis** 78
Retaliating against an official of the Court **70**

Review and amendment 123 2

Review by the Court leading to reduction of sentence 110 1 ff.

- voluntary assistance 110 19
- willingness to cooperate 110 18

Review Conference 121 4

- amendment proposals 121 8
- quorum 121 15

Review of the Statute 123 1 ff.

- entry into force of amendments 123 12
- First Review Conference 123 7
- request for Review Conference 123 11

Revision of conviction or sentence 84 1 ff.

- circumstances revision may be based on 84
 21
- decisive evidence false, forged or falsified 84 23, 25
- definition 84 8 ff.
- final judgment **84** 11
- new evidence **84** 2, 7, 13, 16 ff.
- procedure **84** 4 ff., 28, 30 ff.
- right to bring revision proceedings 84 2, 7
 serious misconduct or breach of duty by the
- dence 84 11, 17 Right of State to intervention in national se-

curity cases 72 25

Right to challenge to the jurisdiction of the Court or the admissibility of a case 19 30 ff.

- accused or persons sought 19 31 ff.
- acts of Prosecutor or warrants not effected 19 99 ff.
- allocation of responsibilities and appeals 19
 73 ff
- Article 12 States 19 39 ff.
- authority to necessary investigative measures 19 90
- authority to prevent the absconding of persons 19 96
- authority to taking statements and completing prior steps 19 92
- information after a deferral 19 107 ff.
- investigating or prosecuting states 19 36 ff.
- limits on the number of challenges **19** 60 ff.
- new facts for review 19 101 ff.
- procedure considering challenges 19 43 ff.

- prompt challenges by states 19 70 ff.
- right to seek rulings and to submit observations 19 50 ff.
- suspension of investigation 19 84 ff.

Right to remain silent 67 44 ff.

rights of persons during investigation 55 12
 Right to seek rulings and to submit observations 19 50 ff.

Rights of persons during investigation 55 1 ff.

- arrest or detention 55 8
- coercion 55 6
- confession 55 5
- legal assistance 55 13
- presence of a counsel 55 15
- right to remain silent 55 12
- self-incrimination 55 5
- translation and interpretation 55 7
- UN Body of Principles for the Protection of All Parsons Under Any Form of Detention or Imprisonment 55 16
- UN Standard Minimum Rules for the Treatment of Prisoners 55 16

Rights of the accused 67 1 ff.

- challenge evidence and raise defence 67 36 ff.
- choice of defence counsel 67 30
- defend oneself in person 67 29
 - examination of witnesses 67 37 ff.
 - fair hearing 67 15
 - free legal assistance 67 32 ff.
- historical development 67 1 ff.
- impartial conduct 67 16

impartiality **67** 17

in full equality 67 18

information about the charge 67 19 ff.

- initial proceedings before the Court 60 4 ff.
- interpreter 67 41 ff.
- presence at trial 67 28
- public hearing **67** 9 ff.
- raise defence 67 39 ff.
- right to remain silent 67 44 ff.
- rights of the defence **67** 27 ff.
- time for preparation of the defence 67 22 ff.
- trial without undue delay 67 25 ff.
- unsworn statement 76 47 ff.

Rights of the defence 67 27 ff.

- challenge evidence and raise defence 67
 36 ff.
- choice of defence counsel 67 30
- defend oneself in person 67 29
- examination of witnesses 67 37 ff.
- free legal assistance 67 32 ff.
- interpreter 67 41 ff.
- presence at trial **67** 28
- raise defence 67 39 ff.
- right to remain silent 67 44 ff.
- unsworn statement 76 47 ff.

Rule of speciality 101 1 ff.

- application on surrender to the Court 101
 ff.
- customary international law 101 1
- scope of application 101 11 ff.
- transfer of execution 101 36
- waiver 101 27 ff.

Rules and Procedure of Evidence

- binding nature of the Rules 51 35 ff.
- conflict between Statute and Rules 51 34 ff.
- entry into force 51 20
- historical development 51 1 ff., 9 ff.
- prohibition of retroactive application 51 33
- provisional rules **51** 28 ff.
- purpose 51 8

Rules of international law 21 35 ff. Ruling on admissibility or relevance of evidence 64 50, 69 32, 36 ff., 72

S

Salaries, allowances and expenses of judges 49

Sanctions for misconduct before the Court 71

- discretion of the Court 71 32 ff.
- disruption of proceedings 71 20 ff., 25, 26
- drafting history 71 6 ff.
- fine 71 5, 6, 13, 28 ff.
- historical overview 71 4 ff.
- institutional scope of application 71 17
- justified behaviour 71 21
- local scope of application 71 19
- mens rea of misconduct 71 24 ff.
- misconduct 71 28 ff.
- misconduct by the accused 71 20
- misconduct by the counsel **71** 21
- misconduct by the Prosecutor 71 22
- misconduct by witnesses 71 23
- personal scope of application 71 10 ff.
- procedure 71 34 ff.
- removal from the courtroom 71 28
- sanctioning procedure within the Rules of Procedure and Evidence 71 34
- sanctioning procedure without the Rules of Procedure and Evidence 71 35
- sanctions available to the Court 71 28 ff.
- substantive scope of application 71 20 ff.
- temporal scope of application 71 17 ff.
 SCSL 10 21

Searches and seizures 93 33

Seat Agreement concerning enforcement of sentences of imprisonment 103 30

Seat of the Court 3 1 ff., 7, 7, 14 ff.

- detention measures 3 44 et seq,
- historical development 3 1 ff., 7
- interim removal 3 7
- International Rhine Navigation 3 4
- legal status 3 1, 5, 4 1 ff.

- privileges and immunities 3 49
- transit arrangements 3 42 ff.

Secrecy of deliberations of trial judge 74 61 ff. Security and operational assistance concerning Headquarters Agreement 3 32

Security Council 2 48 ff.

Security Council referral 15ter 1 ff.

- drafting history 15ter 2
- exercise of jurisdiction 13 16 ff.
- independence of the ICC 15ter 9
- jurisdiction ratione temporis 15ter 8
- requirement of previous determination of aggressive act 15ter 4
- temporal jurisdiction **15ter** 5

Self-defence 31 32 ff.

Self-defence against non-State actors 8*bis* 74 ff. Sentencing 76 1 ff.

- distinct sentencing hearing 76 3 ff.
- penalties 77 et seq.
- post-conviction hearing 76 10
- procedure in case of guilty plea 76 7
- relevant additional evidence 76 8

Sentencing hearing 76 3 ff.

Separate and dissenting opinions in appeal cases 83 34 ff.

Serious misconduct or breach of duty by the judge – revision of conviction or sentence 84 11.17

Serious violations of the laws and customs in international conflicts 8 180 ff.

Service of documents 93 26

Service of judges 35 1 ff.

availability to serve full-time 35 9 ff.

calling judges to serve full-time 35 17 ff.

Conditions of Service 35 26 ff.

- drafting history **35** 2 ff.
- financial arrangements for non-full-time judges 35 23 ff.
- full-time service of judges 35 7 ff.
- remuneration 35 26

Settlement of disputes

- re Headquarters Agreement 3 9, 34 ff.

Sexual slavery 8 676 ff.

- crimes against humanity 7 95 et seq,.
- non-contextual elements 7 95

Sexual violence

- crimes against humanity 7 61 ff.
- non-contextual elements 7 61 ff.

Signature, ratification, acceptance, approval or accession 125 1 ff.

- depositary function 126 10
- ratication and accession 125 8
- signature 125 6
- withdrawal of signature 125 7

Siracusa Draft 1 4

Slavery Convention 1926 8 678

Solemn undertaking of members of the Court 45 1 ff.

Solicitation or acceptance of a bribe by an official of the Court **70** 27

Soliciting a crime 25 23

Special Advisers and Special Representatives of the Secretary-General 2 37

Special Court for Sierra Leone- Headquarters Agreement 3 50, 50 ff.

Special Working Group on the Crime of Aggression 112 77, 101

Specific armed conflict

war crimes 8 38 ff.

Staff of Office of Prosecutor and Registry 44 1 ff.

- appointment 44 3
- drafting history 44 1 ff.
- gratis personnel 44 7 ff.
- qualification 44 4
- Staff Regulations 44 5 ff.

Staff Regulations 44 5 ff.

Standard of proof **78** 11

Standard of review 81, 83 2, 6, 9 ff., 18 ff.

Standards of imprisonment 106 6

Standards of proof 19 17 ff., 104

Standards of review on appeal 81 73

Standing on appeal 83

Stare decisis principle 21 51

Starvation of civilians as a method od warfare 8 746 ff.

- international armed conflict 746 ff.

State acceptance as precondition to the exercise of jurisdictions 12 14

State Party referral – exercise of jurisdiction 13

State 'opt-in' and 'case-by-case' proposal 11 11 Stationing agreement 8bis 136 ff.

- unlawful extension of presence **8bis** 139
- violation 8bis 137

Statute of limitations 29 1 ff.

STL 10 21, 24

21 ff.

Structure of the Prosecutor's Office **42** 12 ff. Study Group on Governance **112** 15.24 Submission to competent State authorities

offences against the administration of justice 70 40

Subsequent development in the jurisprudence revision of conviction or sentence Subsequent Review Conferences **123**Suffering from mental disease or defect

Summons to appear by Pre-Trial Chamber 58 1 ff.

- appearance before the competent authority 59 7 ff.
- applicable warrant **59** 12
- application of the Prosecutor 58 40 ff.
- conditions 59 19 ff.
- decision of Pre-Trial Chamber 58 43 ff.
- drafting history 58 1 ff., 59 2 ff.

- immediate reaction 59 5 ff.
- interim release 59 15 ff.
- notification of the Pre-Trial Chamber and recommendations 59 23 ff.
- periodic reports 59 27
- proper proceedings 59 11 ff.
- surrender on order 59 28

Superior order defence 33 1 ff.

Superior orders 31 11

Superior orders and prescription of law 33 1 ff.

- command responsibility 33 32 ff.
- conceptual framework 33 10 ff.
- connection between order and conduct 3323
- crime committed pursuant to an order 33 16
- crime within the jurisdiction of the Court 33 15
- exemption 22 26 ff.
- historical development 33 1 ff.
- legal consequences 33 24
- manifestly unlawful order 33 30 ff.
- meaning 33 13, 17
- order by Government or of a superior 33 18 ff.
- order by military or civilian authorities 33
- superior order defence 33 1 ff.

Supervision and conditions of imprison-

ment 105 1 ff.

- communication between Court and sentenced person 106 11

- conditions 106 9 ff.

standards of imprisonment 106 6

supervision of the Court 106 3
 Surrender

- definition 102 et seq.

Surrender arrangements 89 25

Surrender of persons to the Court 89 1 ff.

- accordance with procedures under national law 89 24
- compliance with requests for arrest and surrender 89 5 ff.
- consultation with the Court after a decision to grant the request 89 59 ff.
- consultation with the Court on admissibility 89 31
- crimes different from those for which surrender is sought 89 58
- custody during transport 89 44
- no authorization for transit 89 45
- person being proceeded against or serving a sentence in the requested state 89 52 ff.
- post surrender release 89 26
- postponement of the execution **89** 35
- proceeding with the execution 89 32
- surrender arrangements 89 25
- transmission of the request for the arrest **89**

- transportation through the territory of another State 89 38 ff.
- unscheduled landing on the territory of the transit State 89 46 ff.

Т

Taking hostages 8 173 ff.

Technical cooperation between Court and UN 2 39 ff., 40

- ad hoc cooperation 2 40
- defence teams 2 40
- MINUSMA 2 40
- MONUSCO 2 40
- OTP 2 40
- UNHAS 2 40
- UNON 240

Temporary transfer of persons 93 31, 58 ff.

- agreement to conditions 93 60
- freely given informed consent to the transfer 93 59
- remaining in custody and returning without delay **93** 61 ff.

Term of life imprisonment 77 24

Territorial jurisdiction as precondition to the exercise of jurisdictions 12 15 ff.

Terrorism

- jurisdiction of Court 5 4 ff.
- nullum crimen sine lege 22 58 ff.

Testimony in person 69 25

Third-party information or documents 73 1 ff.

- disclosure in confidence 73 9 ff.
- information from States Parties 73 13 ff.
- information from states, intergovernmental and international organizations 73 12
- non-States Parties refusing to consent 73
 15 ff.
- requested State Parties 73 7 ff.

Time for preparation of the defence **67** 22 ff. Time limit for appeal **83** 48 ff., 52, 57, 85

Timing of disclosure of documents or information in the trial **64** 22

Topics for Review Conferences **123** 8 ff. Torture **8** 87 ff.

- Convention against Torture 7 239

- crimes against humanity 7 71 ff.
- exception 7 239
- intent and knowledge 7 235
- persons in custody or under control 7 238
- rape and sexual violence 7 133
- severe pain or suffering 7 236
- specific elements of torture 8 88
- violence to life and person

Trafficking Convention 7 222

Transfer of execution 101 36

Transfer of the person upon completion of sentence **107** 1 ff.

- applicable law 107 4
- costs of transfer 107 10

- extradition or surrender 107 11 ff.
- receiving state **107** 5
- staying in the state of enforcement 107 8
- wishes of transferee **107** 6

Transferring parts of the own population into occupied territory **8** 364 ff.

Transitional provisions 124 1 ff.

- addressee of the declaration 124 16
- breadth of declaration 124 10 ff.
- drafting history 124 1 ff.
- Security Council 124 8

Translation and interpretation during investigation 55 7

Transmission of cooperation request 87 4 ff., 19

Transnational armed conflicts 8 870 ff.

Travel and subsistence costs of organs and staff of the Court 100 5

Treaty crimes

- jurisdiction of Court 5 1 ff.

Trial 62 et seq.

Trial Division 34 6 ff., 7

Trial management 81 73

Trial without undue delay 67 25 ff.

Trust Fund 79 1 ff.

- beneficiaries 79 5 ff.

Court orders to transfer fines or forfeiture 79 8

- drafting history 79 2 ff.

management **79** 10

UN Basic Principles on the Independence of the Judiciary **46** 5

UN Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment 55 16

UN Children's Fund 2 37

UN Commission of Inquiry 2 47 ff.

UN Development Program 2 54

UN Educational, Scientific and Cultural Organisation 2 38

UN GA Resolution 3314 8bis 99 ff.

UN ICTY Judicial Database 2 46

UN Mission in the DCR 2 44

UN SC Resolution 1593 – exercise of jurisdiction 13 16 ff.

UN Standard Minimum Rules for the Treatment of Prisoners 55 16

UN Working Group on Arbitrary Detention 7

Unanimity, majority and minority views of trial judges 74 57 ff.

Undertaking as to the truthfulness of the evidence **69** 23 ff.

UNHAS 2 40

UN-ICC Roundtable 2 34

Unlawful deportation, transfer or confinement 8 146 ff.

Unsworn statement 76 47 ff.

Using any weapons by a State against the territory of another State 8bis 126

V

Victim participation

- appeal **82** 14
- proceedings on appeal 83 60 ff.

Victim representation 15 27 ff.

Victims and Witness Unit 43 15 ff.

- persons at risk on account of their testimony 43 20
- relation to Office of the Prosecutor 43 16
- relation to Registry 43 15
- responsibilities 43 18 ff.
- staff 43 21

Victims of sexual violence 68 21

Victims Trust Fund 79 1 ff.

Victims' participation 68 3, 22 ff.

- legal representatives of victims 68 27, 38
- notification to victims and their legal representation 68 45
- Office of the Public Counsel for Victims 68 40 ff.
- personal interest **68** 22
- Rules of Procedure and Evidence 68 29
- Victims' Participation and Reparation Section 68 40 ff.
- victims' views and concerns 68 23

Victims' Participation and Reparation Section **68** 40 ff.

Victims' protection 68 1, 12 ff., 14

- children as victims or witnesses **68** 21
- exceptions 68 19
- limits 68 19 ff.
- measures of the Court to protect victims and witnesses **68** 12, 15 ff.
- presentation of evidence by electronic or other special means 68 21
- proceedings in camera 68 19
- victims of sexual violence 68 21

Video link in trial 63 36, 39, 46

Vienna Declaration and Programme of Action 7 77

Violation of right to fair trial in appeal **81** 100 ff.

Violation of stationing agreements and unlawful extension of presence act of aggression **8bis** 136 ff.

Violence to life and person **8** 902 ff. Visas, permits and other documents **3** 32, 44 Voluntary contributions **116** 1 ff.

W

Waiver of immunity **98** 155 Waiver principle **81** 18, 77, 55 Waiver rule of speciality **101** 27 ff. Waiving of immunities, privileges 3 32, 49 War crime committed in armed conflict not of an international character 8 847 ff.

War crimes 8 1 ff.

- armed conflict 8 26 ff.
- attack against protected buildings 8 399 ff.
- attacks against civilian objects 8 210 ff.
- attacks against civilians 8 184 ff.
- attacks against peacekeeping missions 8 219 ff.
- attacks against persons hors de combat 8 267 ff.
- attacks against the natural environment 8 243 ff.
- attacks on humanitarian assistance 8 219 ff.
- biological experiments 8 100 ff.
- classification 8 48 ff., 53
- compelling adversary nationals to take part in war actions 8 522 ff.
- compelling to serve in hostile forces 8 127 ff.
- deportation and transfer in occuppied territroies 8 263 ff.
- destruction 8 474 ff.
- drafting history 8 16 ff.
- elements describing the context 8 66 ff.
- elements related to persons and property 8 74 ff.
- evolution of the law of war crimes 8 13 ff.
- extensive destruction and appropriation of property 8 112 ff.
- Geneva conventions 8 57 ff.
- improper use of distinctive signs 8 308 ff.
 inhuman treatment 8 95 ff.
- international humanitarian law 8 2, 4 ff.
 interpretation 8 43 ff.
- jurisdiction 5 24 ff., 8 53 ff.
- nexus 38 ff.
- nexus to armed conflict 8 41 ff.
- outrages upon peronal dignity 8 605 ff.
- perfidious killin or wounding 8 437 ff.
- physical mutulation 8 419 ff.
- pillage 8 539 ff.
- prohibited weapons 8 555 ff.
- quarter 8 457 ff.
- regarding rights and rights of action 8 504 ff.
- responsibility of criminals 8 14
- specific armed coflict 8 38 ff.
- torture **8** 87 ff.
- unlawful deportation, transfer or confinement 8 146 ff.
- wilful killing 8 77 ff.
- wilfully causing great suffering, or serious injury to body or health 8 105 ff.
- willfully depriving of the rights of fair and regular trials 8 136 ff.

Warrant of arrest by Pre-Trial Chamber 58

- amendments of warrants of arrest 58 34 ff.
- decision of Pre-Trial Chamber on amendment 58 38 ff.
- drafting history 58 1 ff.
- duration of effect 58 29 ff.
- issuance 58 10
- minimum requirement for a warrant 58 28
- minimum requirement for application 58 22 ff.
- preconditions 58 11 ff.
- procedure 58 7 ff.
- provisional arrest, arrest and surrender on request of the Court 58 31 ff.
- purpose **58** 19 ff.
- request of Prosecutor for amendment 58 34 ff.
- securing attendance of released person 60 23 ff.

Weapons the primary effect of which is to by fragments which in the human body escape detection by X-rays

- international armed conflict 824 ff.

Who may attend Review Conferences 123 10 Wilful killing 8 77 ff.

Wilfully causing great suffering, or serious injury to body or health 8 105 ff.

Willfully depriving of the rights of fair and regular trials **8** 136 ff.

Withdrawal from the Rome Statute 127 1 ff.

- Burundi 127 3, 4, 7
- Gambia 127 4
- Philippines **127** 4
- South Africa 127 4

Witness

 privileges and immunities 48 11 ff.
 Women's Caucus for Gender Justice 7 223, 242

Working Group on Amendments 112 71 ff. Working languages in the Assembly 112 97 World Conference on Human Rights 7 77 World Food Programme 2 37

ZZuphten Draft **1** 3, 10

