

Criminal prosecution of international crime

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The last decade has been marked by a considerable step forward in the domain of criminal law. The implementation of the Rome Statute of the International Criminal Court, in particular, showed the determination of the international community at last to fulfil its long pursued aim, ie. the successful prosecution of international crime according to the principles of equality. Unfortunately, the subsequent development of events met with strong opposition, mostly on the part of the USA, but some other of the biggest and most influential states have not yet become State Parties to the Statute. Since the International Criminal Court is still in its infancy, it is far too early to pass any judgment on the efficiency of its work, but it can be predicted with great certainty that its role will be merely subsidiary due to important statutory restrictions. Consequently, the State Parties will continue to fight international crime, as part of their sovereign authority, mainly by the unremitting prosecution of international criminals who are either accidentally located on their territory or have been extradited. In order to justify their prosecution of foreigners who have committed a criminal offense outside their borders, the institute of universal jurisdiction is being used. Belgium's policy of an omni-approach was the first to demonstrate the trap set for many international criminals, but its progressive legislation unleashed severe international criticism, mainly on the part of the USA and consequently Belgium was obliged to amend its criminal law. Slovene legislation is quite similar, although politically controversial cases have not yet appeared. The basic precondition for trial is the presence of the accused, which in most cases is only feasible if the accused is handed over to the jurisdiction of the State. Prompted by the desire to impose jurisdiction over specific individuals and limited by some restrictions ensuing from the institution of extradition, certain countries have recourse to methods which often disregard international law. These irregularities range from various tricks and lures to forcible abduction and even military intervention in foreign countries. Such cases may trigger international disputes of major significance, which certainly do not help the indicted party, who cannot evade jurisdiction, mainly due to the American Ker-Frisbie doctrine being, in one way or another, adopted by other countries, too. In this respect, international criminal prosecution keeps departing from the track outlined at the turn of the century.

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