



INTERNATIONAL CRIMINAL LAW

30.06.2021

08:00-10:00

General notes:

- Please check at receipt of the exam the number of questions. The examination contains 5 (five) questions.
- Write your answers directly into the document "Answer_Module_XXXXXXXXXX" and save it locally on your computer with your Student ID number.
- Write your Student ID number and your Examination serial number in the header on page 2.
- For submission/upload, save the document with your Student ID number as a PDF file according to the example and upload it. Example: Answer_criminology_17301002.pdf
- You are responsible for uploading the exam in time. You will not be made aware of this.

Notes on marking

When marking the exam each question is weighted separately. Points are distributed to the individual questions as follows:

Question 1	20 points	20% of total points
Question 2	20 points	20% of total points
Question 3	20 points	20% of total points
Question 4	20 points	20% of total points
Question 5	20 points	20% of total points
Total	100 points	100%

We wish you a lot of success!

Question 1 [20 points]

M, an international manufacturer of trucks, notices with growing concern that its trucks are heavily used in Myanmar to transport military troops that are used against peaceful demonstrators to suppress protests against the military coup. Several innocent civilians are beaten up or even shot dead. In this tense situation, the company receives a new order from the military in Myanmar. The CEO is worried about legal consequences for her or the company.

You are the General Legal Counsel of M. The CEO asks you for advice regarding her or the company's criminal liability under the Rome Statute. M is incorporated in an ICC state party. Provide a brief response.

Question 2 [20 points]

After the killing of its long-time strongman president D country T experiences a transition to democracy. In this process, the new president wants to address a period of extreme violence and coordinated suppression of unrests by government forces (leaving thousands dead or locked up in detention centres) from 1996–1998. A religious minority was even expelled during this time because the Government saw the group as a persistent security threat and also sought the support of the leaders of the dominant religion. He reckons that T's own court system is still too fragile to deal with these crimes. T has already joined the ICC and now intends to defer this period of extreme violence to the ICC.

Would the ICC have jurisdiction over these alleged crimes? What alternatives could T's president propose to hold perpetrators accountable for these crimes?

Question 3 [20 points]

What is the function of preliminary examinations in the legal process at the ICC? Briefly describe this phase.

Question 4 [20 points]

Protecting societies from organised crime, including tackling trafficking in human beings, is a priority under the new EU Security Union Strategy. Trafficking in human beings is a highly profitable crime that brings enormous profit to criminals while incurring a tremendous cost to society.

Human trafficking is defined as recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

According to a recent study of the EU Commission, the estimated global annual profit from trafficking in human beings amounts to EUR 29.4 billion. Trafficking for sexual exploitation remains the most prevalent form (60%), followed by labour exploitation (15%). 14 145 victims of trafficking in human beings were registered in the 27 EU member states in 2017–2018 alone. Worldwide the number are much higher and most victims come from outside the EU, mostly poor Sub-Saharan African, South Asian, and Southeast Asian countries.

You are a human rights activist. Your group is of the view that EU activities are not enough. Should Human trafficking become an international crime? Do you agree with regard to the typical elements that distinguish international crimes from other types of offences?

Question 5 [20 points]

A is first lieutenant in the regular Afghan army. In late 2013 a blindfolded and hand-cuffed Taliban fighter is brought to his office. A is very upset because he lost three men in a fire fight the night before. He assumes that the captive belongs to the forces that attacked his soldiers. He wants to find out where they hide and recover. But the captive Taliban remains silent. After a series of threats A gives a nod to B, one of the guards, who starts beating the captive with a rubber stick. Yet, he continues to refuse providing information. This treatment continues for three hours until he is heavily bruised and faints. He is brought to a detention facility.

Years later, A ends up in Switzerland and applies for asylum. By accident, video footage of the beating becomes public. You are an internal at the Federal Public Prosecutor's Office (Bundesanwaltschaft). The head of the war crimes unit tasks you with a summary assessment of A's criminal responsibility for war crimes under the Rome Statute.