COMPLEMENTARY VIEWS ON COMPLEMENTARITY

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THE ADMISSION TEST BEFORE THE INTERNATIONAL CRIMINAL COURT UNDER SPECIAL CONSIDERATION OF AMNESTIES AND TRUTH COMMISSIONS

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1. INTRODUCTION

With the entry into force of the Rome Statute,¹ a State’s competence to try international crimes remains untouched. According to the complementarity principle, cases of genocide, crimes against humanity, war crimes and (upon definition) the crime of aggression are to be tried by States. The ICC only acts when States do not undertake proceedings or do not do it properly. In order to apply this complementarity principle, the Court has to undertake an admissibility exam² for each case before it.³ This admissibility test de-

* L.L.M., Ph.D. candidate, Humboldt University (Berlin). This paper is a synopsis of my doctoral research on the admissibility test. The full text of my doctoral thesis will be published at the beginning of 2005 under the title Die Zulässigkeitsprüfung vor dem Internationalen Strafgerichtshof: Zur Auslegung des Artikels 17 ISGH-Statut (unter besonderer Berücksichtigung von Amnestien und Wahrheitskommissionen). I would sincerely like to thank Joseph Windsor, L.L.M. candidate, for language corrections and various comments, as well as Boris Burghardt, Ph.D. candidate, and Professor Dr. Gerhard Werle for their useful observations and discussion of the article. All views expressed and errors are solely the responsibility of the author. The author can be contacted at cardenascl@yahoo.de.


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