



## *Book Review*



### **Otto Triffterer and Kai Ambos (eds.)**

*The Rome Statute of the International Criminal Court: A Commentary*, third edition (Munich, Oxford, Baden-Baden: C.H.Beck, Hart, Nomos, 2016) ISBN 978-3-406-64854-0, pp. 2352.

The *Triffterer Commentary* was the first article-by-article commentary on the Statute of the International Criminal Court. It only appeared a year after the adoption of the Rome Statute in 1998. A second edition followed almost ten years later, in 2008. By now this commentary will be known – and most probably valued – by every professional lawyer working in the field of international criminal law. Eight years since the second edition, international criminal law practitioners are blessed with a third edition, edited by Kai Ambos. The founding editor, Otto Triffterer, died on 1 June 2015, and this third volume is dedicated in his memory. Otto Triffterer was one of the most renowned experts on international criminal law, and he dedicated his professional life to the development of a permanent international criminal court. In his wisdom and foresight he entrusted Professor Kai Ambos with the editorial responsibility of the third edition, thereby ensuring that his legacy will be continued. Ambos, a Professor of criminal and international criminal law at Göttingen University and a criminal judge at the Göttingen District Court in Germany, without any doubt brings along the perfect credentials as one of the leading academics in this field to continue the tremendous task of editing a commentary on one of the most complex international conventions.

The first two volumes have surely benefited from many authors that were participants of the Rome conference in 1998. For this new edition several commentaries of authors of this first generation have been revised, sometimes in their entirety, by new authors, ranging from renowned scholars to well-known practitioners. The third edition of the *Triffterer Commentary* has been therefore passed on to the next generation. This is also reflected in the shorter subtitle 'A Commentary', which substitutes the former and rather lengthy and

cumbersome subtitle 'Observers' Notes: Article by Article'. The revising authors have handled the original commentaries with care and excellence. The former and current presidents of the ICC, Judges Song and de Gurmendi, each provide brief introductions that place the ICC and the systematic features of the legal document into its proper historical and current context, thereby providing the larger picture of the institutional setting of the ICC in international law and relations.

Since the first volume in 1999 the *Triffterer/Ambos Commentary* has grown by about 1000 pages. The original 'classical' commentary style, structured by the thirteen parts of the ICC Statute and its individual articles, has been adhered to, providing an exegesis of not only every article, but also of paragraphs, sentences or even words of an article. With more than 800 pages, Part 2 dealing with the jurisdiction, admissibility and the applicable law before the ICC is certainly given the highest prominence. The second largest part on the trial procedure (Part 6) 'only' covers slightly more than 300 pages. Novelties have been added to the third edition. Every article sections, at times even subsections, commence with a list of general literature. Given the sheer volume of publications in the field of international criminal law, these literature lists provide useful guidance into the complex legal frameworks of each article of the ICC Statute. Moreover a comprehensive index has been added. New entries for Article 8(2)(e)(xiii) to (xv) (specific war crimes in non-international armed conflict), 8*bis* (aggression), Article 15*bis* (exercise of jurisdiction over the crime of aggression, state referral and *proprio motu*), Article 15*ter* (exercise of jurisdiction over the crime of aggression, Security Council referral) of the ICC Statute have been added. These new crimes were added to the ICC framework following the Kampala review conference in 2010.

The commentaries are well-structured. It is easy for a reader to find her or his way through complex provisions and legal questions. Each section starts with the reproduction of the relevant article, followed by the above mentioned general literature list (which is topically structured for the more complex articles, such as Article 7 (crimes against humanity) or Article 8 (war crimes), thereby ensuring easy navigation), and a detailed table of contents for each of the commentaries. The section on International Cooperation, unlike the other sections, provides a 'Preliminary Remark', which puts the difficult question of cooperation into its general context within the overall framework of the ICC Statute. The authors generally find a good balance between the growing jurisprudence of the ICC and other international and hybrid tribunals and academic opinions. Compared to the earlier editions, the footnotes therefore increasingly focus on the case law of the ICC and that of other tribunals,

thereby moving away from an emphasis of academic opinions, which was certainly justified, given the lack of jurisprudential output, in the initial edition. This has undoubtedly changed, given that the ICC has completed its first cases and is dealing with several situations and cases. The classification and appraisal of the growing ICC jurisprudence within the commentaries is a true asset for any international criminal law practitioner.

A common criticism of article-by-article commentaries, such as the *Triffterer/Ambos Commentary*, is that an article-by-article commentary loses sight of the 'big picture' and emphasizes a self-contained character of the system of rules. This is certainly true, but neglects that such an oeuvre does not even envisage providing such a larger picture *per se*. Rather, the aim is to provide specific and detailed definitions, interpretations, case law, scholarly views on the specific text, particular articles, paragraphs, sentences and wordings within the legal document, thereby providing an exhaustive and holistic analysis of the Statute's provisions, enabling a reader to appreciate and apprehend the connotation and significance of the wording of an article.

Not many standard books on international criminal law have reached the age of a third edition. The continuity of the *Triffterer/Ambos Commentary* is a true exception, which will without any doubt benefit everyone working in the field of international criminal law. The previous editions have been regularly referred to by the judges and parties at the ICC. It has also been referred to, even though only occasionally, given its focus on the ICC Statute, by the jurisprudence of the ICTY, ICTR and the ECCC and most certainly in scholarly publications. It is fair to say that the *Triffterer/Ambos Commentary* is and will be the standard commentary on the ICC and international criminal law as a whole. It is hoped that the legacy of *Otto Triffterer* will be carried on to several editions in the future, hopefully within a narrower publication sequence than more or less every eight years. This would not only ensure continuity, but also contemporaneity in a steadily mounting output of ICC jurisprudence.

One can only agree with the words of Judge Song in his introduction that the *Triffterer/Ambos Commentary* 'represents a most valuable contribution to a more erudite understanding and interpretation of the Rome Statute and therefore a powerful tool to document and supplement the development of international criminal law'. It will be an indispensable tool for those working at or before the International Criminal Court, and even in the field of international criminal law more generally.

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