

SELF-ASSESSMENT QUESTIONNAIRE

UNIT 14

QUESTION ONE

One, two, three or even four of the answers to each item or question are correct. Mark them.

The International Military Tribunals of Nürnberg and the Far East were characterised by:

- A) being multinational tribunals, albeit not international ones in the strict sense of the term, as they only represented part of the international community, the victors;
- B) having been created by agreements dated 8 August 1945 and 19 January 1946, respectively;
- C) applying international law and the internal law of each state;

D) entrusting the functions of investigation and prosecution to different bodies.

Comment: The correct answers are a), b) and c). According to their respective statutes of establishment and operation, the same body investigated and held the trial.

QUESTION TWO

One, two, three or even four of the answers to each item or question are correct. Mark them.

The International Criminal Tribunals for the former Yugoslavia and Rwanda are characterised by:

- A) having preferential jurisdiction over national tribunals if both of them hold concurrent jurisdiction;
- B) being truly international tribunals, having been established by the international community as a whole;
- C) having complementary jurisdiction vis-à-vis national jurisdictions, in the sense that they exercise it on a subsidiary level when the corresponding state waives its jurisdiction;
- D) prosecuting serious violations of International Humanitarian Law committed within a specific timeframe.

Comment: The correct answers are a), b) and d). Unlike the International Criminal Court, their jurisdiction is preferential vis-à-vis the jurisdictions of the Member States who must withdraw in favour of these *ad hoc* tribunals.

QUESTION THREE

One, two, three or even four of the answers to each item or question are correct. Mark them.

The International Criminal Court is characterised by:

- A) its status as a permanent court with potentially universal scope;
- B) not having jurisdiction to prosecute states, but physical persons;
- C) having jurisdiction over the territories of states that are not parties but which have accepted the jurisdiction of the Court;
- D) the fact that in cases of concurrent jurisdiction, the competent state must waive the obligation to investigate and prosecute in favour of the Court.

Comment: The correct answers are a), b) and c). Unlike the *ad hoc* International Criminal Tribunals, its jurisdiction is complementary to the jurisdictions of the states. Consequently, it will only be exercised on a subsidiary basis when the state in question waives the obligation to investigate, prosecute and punish certain offences either because it does not wish to do so or because it cannot do so effectively.

QUESTION FOUR

One, two, three or even four of the answers to each item or question are correct. Mark them.

The obligation of the states parties to cooperate in the investigation and prosecution of crimes by the International Criminal Court is characterised by the fact that:

- A) in the event that they fail to do so, the ICC could raise the matter before the Assembly of States Parties or before the Security Council if the question was referred by the latter;
- B) Iber-RED can provide assistance in the correct preparation of requests for cooperation sent by the ICC in relation to the internal law of the states of the Ibero-American Community;
- C) states that are not parties to the Rome Conference are obliged to cooperate with the ICC in certain cases;
- D) in order to enhance cooperation between the ICC and the EU, a specific network of contact points has been established for the exchange of information and judicial assistance.

Comment: The correct answers are a), b) and d). The obligation to cooperate with the ICC is the exclusive responsibility of the States Parties to the Rome Conference (Article 86 of its Statute).

QUESTION FIVE

One, two, three or even four of the answers to each item or question are correct. Mark them.

Which of the following statements regarding the ICC is/are incorrect?

- A) The victims of crimes over which the Court has jurisdiction are entitled to participate in the cases being heard by it.

B) It has jurisdiction over crimes occurring prior to the approval of the Rome Statute on 17 June 1998.

C) The crimes over which the Court has jurisdiction do not lapse.

D) Exceptionally, it can sentence guilty persons to life imprisonment, when the extreme seriousness of the crime committed and the personal circumstances of the convicted person so justify.

Comment: The correct answers are a), c) and d). The ICC only has jurisdiction over crimes committed after 1 July 2002, the date on which the Rome Statute entered into force after being ratified by 60 countries. According to Article 126, Section 1, the Statute “shall enter into force on the first day of the month after the 60th day following the date of the deposit of the 60th instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations”.

QUESTION SIX

One, two, three or even four of the answers to each item or question are correct. Mark them.

The following are characteristics of internationalised courts:

A) they comprise international judges;

B) like the *ad hoc* international criminal tribunals, they are not permanent;

C) they are all courts that are integrated into the judicial system of the country concerned;

D) they only prosecute serious infringements of international humanitarian law over a certain period.

Comment: The correct answers are a) and b). The internationalised courts do have some traits that set them apart, as they may be integrated into the judicial system of the country (for example, the Special Chambers or Panels for Cambodia and East Timor) or remain external to it (for examples, in Sierra Leone or Lebanon).

Meanwhile, unlike the ICC and the *ad hoc* international criminal tribunals, the applicable law is both international humanitarian law and domestic law.

QUESTION SEVEN

One, two, three or even four of the answers to each item or question are correct. Mark them.

The International Court of Justice is characterised by the fact that:

A) exceptionally, physical persons may appeal to said Court;

B) it does not have criminal jurisdiction and, as such, cannot prosecute individuals such as war criminals;

C) its jurisdiction extends to all the matters envisaged in the Charter of the United Nations or in treaties and conventions in force, such as Article 42 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime;

D) one of the functions of the Tribunal is to issue advisory opinions on legal questions submitted to it by specialised UN organs and bodies with due authorisation.

Comment: The correct answers are b), c) and d). According to Article 34, Section 1, of its Statute: only states may be parties in cases before the Court.

QUESTION EIGHT

One, two, three or even four of the answers to each item or question are correct. Mark them.

The criminal jurisdiction of states is characterised by:

A) being based exclusively on the principle of territoriality;

B) covering offences committed abroad, even by foreign citizens, that harm or threaten internal legal property involved in the protection of the state;

C) the fact that pursuant to the principle of active personality, the criminal jurisdiction of the state is responsible for trying criminal offences committed abroad by a national or resident in its territory;

D) the fact that, in order to avoid impunity, international treaties have been prepared in which the states parties undertake to persecute the persons sought by another state in their territory whose extradition is not granted, for one reason or another.

Comment: The correct answers are b), c) and d). In order to avoid cases of impunity, the territoriality rule must be completed by other principles that represent the extraterritorial application of the criminal legislation of the state (for example, in those cases in which there is significant interest due to the nationality of the perpetrator or the protected object).

QUESTION NINE

One, two, three or even four of the answers to each item or question are correct. Mark them.

The principle of universal jurisdiction is characterised by the fact that:

A) the jurisdiction of the judge of a state on the basis of the principle of universal prosecution is complementary to the jurisdiction of other judges based on the principles of territoriality, or active or passive personality;

B) there is no rule in the international legal system that obliges states to incorporate said principle into their internal legal systems, or indeed one that prohibits them from doing so;

C) the scope of this principle will depend on each state, its foreign policy objectives and its diplomatic relations, as well as the importance it attributes to the protection of human rights;

D) said principle, apart from the place the acts were committed and the nationality of the perpetrator and the victim, requires the presence of the accused person before the state judge in any event (otherwise the extradition of the accused person could be requested on the basis of this principle).

Comment: All answers are correct.

QUESTION TEN

One, two, three or even four of the answers to each item or question are correct. Mark them.

Transitional justice is characterised by:

- A) the fact that contemplating only measures of a judicial nature in a post-conflict situation can have the opposite effect to the one sought by preventing the objectives of peace and stability for the territory from being attained;
- B) not being a special form of justice, but rather justice adapted to societies that are transforming themselves after a period of widespread human rights violations;
- C) the fact that its purpose is to achieve reconciliation and justice between the opposing parties and to ensure the development of lasting peace and a democratic society;
- D) the choice of the measure to be adopted, under the concept of transitional justice, will depend on the objectives to be attained (justice, truth, rehabilitation of victims, etc.).

Comment: All answers are correct.