

Doctoral Dissertation Abstract

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Title: Evidence in the proceedings before the International Criminal Court

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The present doctoral dissertation covers the rules and the practice relating to the presentation of evidence in the proceedings before the International Criminal Court (ICC).

Evidence plays the key role in the process of proving the responsibility of the accused in the trial before the ICC. Proceeding before the ICC is of a hybrid nature. It has been shaped by a combination of solutions derived from the two largest legal cultures: Anglo-Saxon and Continental. This fact has fundamentally influenced the establishment of a *sui generis* procedure, including the rules concerning the presentation of evidence.

The dissertation departs from two hypotheses. Firstly, the hybrid nature of the rules regarding the presentation of evidence before the ICC is the very reason for their broad interpretation. Secondly, the interpretation of the rules of presentation of evidence before the ICC remains under the dominant influence of the Anglo-Saxon culture.

From the methodological point of view, the dogmatic-legal and comparative research approach has been used. The research was based on legal sources such as: the Rome Statute of the ICC, the Rules of the Procedure and Evidence, the criminal laws of selected countries, jurisprudence of the ICC, pleadings and transcripts of hearings.

The dissertation is composed of seven chapters. The first one focuses on the basic issues such as the definition of the international criminal law as well as the Anglo-Saxon and Continental legal traditions. The second chapter focuses only on the International Criminal Court, especially its jurisdiction and the sources of the procedure. In the third part the notion of evidence is defined and the rules of the evidence proceeding is presented. The subsequent four chapters contain the analyses of four distinct sources of evidence: witnesses, the accused, experts and documents.

The results led to the positive verification of the first hypothesis. As for the second hypothesis thesis, there is no clear confirmation.

The examination of witnesses is influenced by the Anglo-Saxon tradition. Neither the Rome Statute nor the Rules of Procedure and Evidence explicitly regulate the phased hearing, characteristic for *common law* (including the cross-examination). However, the possibility of a cross-examination is permitted and applied in the proceedings before the ICC.

The accused may make sworn and unsworn statements, confess guilt or remain silent. Making sworn statements, the accused is under an obligation to tell the truth. He or she may be criminal liable for giving false testimony. The accused may also make unsworn statements, but these statements are not treated by the ICC as evidence.

An expert is questioned on the same basis as a witness. Before testifying, an expert gives an undertaking to the truthfulness of the evidence to be given by him. He is responsible for giving false testimony.

Finally, documentary evidence plays an important role in the proceedings before the ICC. The ICC's rules of conduct governing their admissibility are a combination of rules derived from the Anglo-Saxon and the continental systems. The introduction of documentary evidence at the trial takes place in a manner characteristic of both *common law* and continental systems.

The increasing size of the ICC's jurisprudence should be the cause of the further research in the area of international criminal law.