OPPONENT'S REVIEW OF MASTER'S THESIS

University:	Palacky University Olomouc
Faculty:	Faculty of Law
Department:	Department of International and European Law
Student:	Pablo Martínez Ramil
Topic:	Adversary element in definition of war crimes
Supervisor:	JUDr. Ondřej Svaček, Ph.D., LL.M.
Opponent:	Mgr. Petr Stejskal, Ph.D., LL.M.

Choice of the topic and its relevance

The candidate has chosen a topic belonging to the field of international criminal law/international humanitarian law that is relevant for both the theory and practice that has attracted the attention of several authors. At the same time, it has the background of a real and still ongoing case in front of the International Criminal Court ("ICC"). For these reasons, the topic is very relevant. The specificity of the topic and research questions can also be commended as it allows the author to engage in a critical analysis of a particular and compelling issue on the adequate level of detail.

Form of the work

As regards the formal requirements, the text of the thesis does not suffer from greater insufficiencies. However, there are few flaws in grammar - repeatedly using the phrase "*in one hand*" instead of "*on one hand*;" mistakes in timing of sentences (at p. 52-53 for example); mistakes in prepositions etc. The composition of sentences is occasionally incorrect (p. 20, 23, 56 etc.). It is also not desirable for a legal academic work to divide the text into "bullet-points" as the author did in the introduction. The language, despite the above-mentioned mistakes, is generally clear and comprehensible.

The apparatus of resources referred to in the text is vast and diverse as the author refers to primary resources, as well as judicial decisions and doctrinal works. The work is also clearly structured.

Generally, the presented work fulfills the formal requirements for master's theses as required by the internal regulation PF UPOL S 2/2010.

Content and character of the work

The presented work is focused on the question whether war crimes can be committed within one armed group and thus not only against members of the other party to the conflict. The focus of the work is on – as the author called it – the adversary element in war crimes. The author engages in the analysis of the question on general level, but with special focus on a particular controversial decision related to sexual war crimes.

The author devotes considerable part of the work to the analysis of the history and relationship between war crimes and international humanitarian law. However, it could be better explicated what is the direct impact of the subchapters 2.1 and 2.2 on the analysis in the following parts of the thesis. What could also be explained slightly more clearly is the procedural course of the *Ntaganda* case. On the first reading, it is not apparent that the case is still ongoing and to what exactly the decision of the Appeal Chamber relates. This decision is also elaborated on by the author in the part dealing with the decision of the Trial Chamber (p. 46) and then separately in the part devoted to the decision of the Appeal Chamber, which might be slightly unsystematic.

But generally, the author demonstrated the capacity to conduct a critical legal analysis and work with the legal resources. The text is not too descriptive as it contains the analytical input of the author. For example, the last chapter provided the reader with a critical analysis of individual arguments raised by the ICC in the *Ntanga* decisions.

Conclusions and assessment

The student has demonstrated his capacity to conduct an independent research in the field of public international law. The presented work meets the criterions required for the qualification work in the field.

For the above-mentioned reasons, I recommend the presented work for the oral defense and suggest the following assessment:

„B“

As part of the oral defense, the candidate should answer this question:

1) Are there any potential risks (in legal terms) for the judicial practice if consistently following the approach adopted by the Pre-Trial Chamber or the Trial Chamber in the *Ntaganda* case as regards the main research question? Explain your thoughts.

In Olomouc on 13 of May 2020,

Mgr. Petr Stejskal, Ph.D., LL.M.