Preface

This book is based on an in-depth research into the Colombian peace process under the Justice and Peace Law (Law 975 of 2005), with a view to the obligations set forth under the complementarity principle of the ICC Statute. The research was commissioned by GTZ-ProFis, a project funded by the German government with the goal of assisting Colombia’s Unit of Justice and Peace (Unidad de Justicia y Paz) of the Office of the Prosecutor General (Fiscalía General de la Nación) which is the most important institution to make this process work. The research was conducted in 2008 and 2009 involving various missions to Colombia (see Annex I). The original Spanish language study was presented in October 2009 in Bogotá and was published by GTZ-ProFis and the Colombian publishing house Temis (www.editorialtemis.com) in February 2010; it is also available online at www.department-ambos.uni-goettingen.de/index.php/en/Forschung/friedensprozess-in-kolumbien-aufgrund-des-gesetzes-975-v-2272005.html.

The study pursues an inductive, situation-based approach with regard to the interpretation of the complementarity principle governing the relationship between the jurisdiction of the International Criminal Court and national criminal justice systems (Art. 17 ICC Statute). The situation it starts from is the Colombian peace process under the said Law 975. The question with regard to Article 17 is whether Colombia – as a party to the ICC Statute which has been monitored for years by the Office of the Prosecutor – has complied with its obligations under Art. 17 ICC Statute. The study is structured as follows: the first part contains a critical analysis of the process under Law 975, taking into account not only the relevant norms but especially the practical implementation of the law. With this part a gap is filled since there is thus far no systematic and chronological analysis of this process in English. In the second part, the complementarity test of Art. 17 ICC Statute is systematically analyzed and applied to the Colombian situation. First, the object of reference of this test, in particular the distinction between situation and case, is looked at. Then, the actual complementarity test, distinguishing between the (additional) gravity threshold of Art. 17 and complementarity stricto sensu, is examined. Some recommendations for the further application of Law 975 conclude this part.
At the end of the book, the reader is provided with various annexes containing additional sources with material for further research, including all the relevant norms and case law (Annex I), an English translation of Law 975 (II) and a schematic overview of this Law (III), in addition to the usual bibliography.

The publication of this study would not have been possible without the commitment and constant support of the GTZ-ProFis project and the Justice and Peace Unit of the Fiscalía with all its prosecutors and investigators who received and accompanied the author while he was in Colombia. I am also indebted to all the institutions and individuals who I was able to visit and interview in Colombia. They are all mentioned in Annex I, Section 5. I finally thank my research assistants and LLM/doctoral students Florian Huber (Göttingen) and John Zuluaga (Göttingen/Medellín, Colombia) for their assistance in the English version of this study. Their assistance was also invaluable in the preparation of the original Spanish version of the study which was also supported by Rodrigo Andrés González-Fuente-Rubilar (Göttingen/Concepción, Chile). Last but not least, I thank my doctoral student Ousman Njikam, currently working at the ICTY in The Hague, for a final language revision. The English publication of this study would not have been possible without the generous financial support of the German Foreign Ministry (Auswärtiges Amt).

March 2010

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The Colombian Peace Process and the Principle of Complementarity of the International Criminal Court
An Inductive, Situation-based Approach
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2010, XIII, 130 p. 1 illus., Softcover
ISBN: 978-3-642-11272-0