



Implications of Allegations of Genocide in Contemporary International Relations

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Abstract: The issue of legal facts in international relations is a constant concern throughout the history of the relations of the states of the world from antiquity to the contemporary period. The idea of preventing them and punishing them properly, by holding them accountable both morally and especially politically or from the point of view of international criminal law, is a topic often approached by many contemporary experts today. Frequent military conflicts, revolutions, civil wars or riots, manifested over the centuries and especially in the twentieth and twenty-first centuries, have attracted the attention of the international public, which is increasingly interested in holding those responsible for violating the security climate accountable, the violation of fundamental human rights and crimes against humanity.

Keywords: international relations; contemporary experts; international public

The International Criminal Court², also known as the International Criminal Tribunal, is based in The Hague, in the Netherlands, and is an international court of justice set up to try people who are suspected of crimes against humanity, war crimes or genocide, during armed conflicts or aggressions, military. The international court of justice is composed of a panel of 18 magistrates, but it cannot, however, judge cases retroactive to July 1, 2002. Until 2004, it had been ratified by 94 states.

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² https://ro.wikipedia.org/wiki/Curtea_Penal%C4%83_Interna%C8%9Bional%C4%83.

By its statute, the International Criminal Court has two powers: substantive and personal. The material jurisdiction presupposes the possibility of the Court to judge and punish natural persons considered guilty of the exercise of particularly serious crimes, which affect the overall interests of the international community. Of committing the crimes specified above, only if they have reached the age of 18. The official capacity of head of state or government, president of parliament, dignitary or public official does not exonerate the perpetrator of the act from criminal liability before the Court, nor does it constitute a reason for reducing the sentence. Immunities or special rules of procedure accompanying a person's official capacity do not prevent the Court from exercising jurisdiction over the person concerned. The criminal liability of natural persons is an individual liability. Their collective liability is not admitted.

The International Criminal Court establishes by statute three basic international major crimes: war crimes, crimes against humanity and genocide, this type of crime not being subject to any prescriptions regarding criminal liability, and admits the opening of criminal investigations without being limited by a period of time from the commission of the criminal acts.

Genocide is characterized as a crime committed with the purpose of deliberately and systematically destroying, in whole or in part, a national, racial, ethnic or political community or group¹. *Crimes against humanity* are those considered to include acts committed in a generalized or systematic attack on the civilian population: killing, extermination, enslavement, deportation or forced transfer of the population, imprisonment, or other forms of serious deprivation of liberty, torture, rape, sexual slavery, forced prostitution, forced pregnancy or sterilization, or any other form of sexual violence of comparable gravity, persecution of a group on political, racial, national, ethnic, cultural, religious or gender grounds, or based on by other criteria universally recognized as inadmissible in international law, murder of statelessness and other inhumane acts of a similar nature, causing great suffering and seriously harming physical or mental integrity². *War crimes* are those actions committed by

¹ <https://dexonline.ro/definitie/genocid/definitii>.

² https://ro.wikipedia.org/wiki/Curtea_Penal%C4%83_Interna%C8%9Bional%C4%83; The ICC is financed by contributions from the States Parties. The amount payable by each state party is determined using the same method as the United Nations:[4] each state's contribution is based on the country's ability to pay, which reflects factors such as national income and population. The maximum amount that a single country can pay in any year is limited to 22% of the Court's budget; Japan paid this amount in 2008.

members of the armed forces of a party, during war, against the norms of international law that regulate the laws of war¹.

In accordance with *The Rome Statute*, the International Criminal Court² can only investigate and prosecute genocide, war crimes, crimes against humanity or crimes of aggression, considered by the statute as basic international crimes, for situations in which states are considered unable to do this or they don't want it. In this situation, the competence of the International Criminal Court is complementary to the attributions in the field of national courts. It was also considered that the jurisdiction over crimes belongs to the ICC, only if they are committed on the territory of a signatory country of the Rome Statute or if they are committed by a citizen of a country party to the above-mentioned agreement.³

Preamble

The States Parties to the present Statute, aware that all peoples are united by common ties, their cultures held together in a common heritage and concerned that this delicate mosaic may be shattered by time, aware that in this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity, Recognizing that such serious crimes threaten the peace, security and well-being of the world, Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by strengthening international cooperation, Determined to end impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, Recalling that it is the duty of each state to exercise its criminal jurisdiction over those responsible for crimes international, Reaffirmation of goals and principles of the Charter of the United Nations and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the Purposes of the United Nations

¹ https://ro.wikipedia.org/wiki/Conven%C8%9Biile_de_la_Geneva Especially those that are part of a plan or policy developed, according to the Geneva Conventions of 1949 on humanitarian law and other international conventions and customs.

² <https://legislatie.just.ro/Public/DetaliiDocumentAfis/34774>

³ By way of exception, the International Criminal Court can also have jurisdiction over crimes only if its jurisdiction is authorized by the Security Council of the United Nations, in its capacity as guardian of the maintenance of peace and security in international relations, the imposition of international sanctions or the authorization of international military actions

Emphasizing in this regard that nothing in this Statute shall be deemed to authorize any State Party to intervene in an armed conflict or in the internal affairs of any State, Resolved for these purposes and for the sake of present and future generations, to establish a permanent and independent International Criminal Court in relation to the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole, Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions, Determined to guarantee lasting respect for and application of international justice, Have agreed as follows: There is established o International Criminal Court (Court) as a permanent institution, which can exercise its jurisdiction over persons for the most serious crimes, having an international reputation within the meaning of this statute. It is complementary to national criminal jurisdictions. Its competence and functioning are regulated by the provisions of this statute¹.

Technically, the International Criminal Court may exercise its jurisdiction over a crime referred to in Article 5 in accordance with the provisions of this Statute in the event that one or more such crimes which appear to have been committed are referred to the Prosecutor by a State Party in accordance with article 14, a situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations; or if the prosecutor has initiated an investigation into such a crime in accordance with Article 15².

Crimes under the jurisdiction of the Court The jurisdiction of the International Criminal Court is limited to the most serious crimes that concern the international community as a whole. The Court has jurisdiction in accordance with this statute with respect to the following crimes:

- (a) The crime of genocide;
- (b) crimes against humanity;
- (c) war crimes;
- (d) Crime of aggression.

¹ <https://www.icc-cpi.int/sites/default/files/Publications/Rome-Statute.pdf>

² <https://www.icc-cpi.int/sites/default/files/Publications/Regulations-of-the-Court.pdf>

Genocide

For the purposes of this Statute, “genocide” means any of the following acts committed with the intention of destroying, in whole or in part, a national, ethnic, racial or religious group, such as: killing members of the group, causing serious bodily or mental harm to the members of the group, Deliberately bringing upon the group living conditions calculated to produce its total or partial physical destruction, imposing measures designed to prevent births within the group, Forcibly transferring the group's children to another group.

Crimes against Humanity¹

1. For the purposes of this Statute, “crime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

(a) murder; (b) Extermination; (c) enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty, in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collective on political, racial, national, ethnic, cultural, religious, gender grounds, as defined in paragraph 3, or other grounds

which are universally recognized as impermissible under international law, in relation to any act referred to in this paragraph or in any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar nature which intentionally cause great suffering or serious injury to body or mental or physical health.

For the purposes of paragraph 1: (a) “Attack directed against any civilian population” means a course of conduct involving multiple commissions of the acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State

¹ <https://www.icc-cpi.int/sites/default/files/Publications/Rome-Statute.pdf> Paragraph 2 of Article 5 (“The Court shall exercise its jurisdiction over the offense of aggression once a provision is adopted in accordance with Articles 121 and 123 defining the offense and establishing the conditions under which the Court shall proceed to exercise jurisdiction over this offence. Such provision must be consistent with the relevant provisions of the Charter of the United Nations.”) was removed in accordance with RC/Res.6, annex I, of June 11, 2010

or organizational policy of committing a such attack; (b) “Extermination” includes the intentional imposition of conditions of life, inter alia, deprivation of access to food and medicine, designed to cause the destruction of a part of the population; (c) “Slavery” means the exercise of any or all powers of ownership over a person and includes the exercise of such power in the course of trafficking in persons, especially women and children; (d) “Deportation or forced population transfer” means the forced displacement of the persons concerned by expulsion or other coercive acts from the area where they are legally located, without reasons recognized by international law; (e) “Torture” means the intentional infliction of severe physical or mental pain or suffering on a person in the custody or control of the accused; except that torture shall not include pain or suffering arising solely from, inherent or incidental to, legal sanctions; (f) “Forced pregnancy” means the unlawful confinement of a woman forcibly made pregnant with the intent to affect the ethnic composition of any population or to commit other serious violations of international law. This definition should in no way be interpreted as affecting national pregnancy legislation; (g) “Persecution” means the intentional and serious deprivation of fundamental rights, contrary to international law, because of group or collective identity; (h) “The crime of apartheid” means inhumane acts of a nature similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intent to maintain that regime; (i) “Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or consent of, a State or a political organization, followed by a refusal to acknowledge such deprivation of liberty or to provide information about the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for an extended period of time.

3. For the purposes of this Statute, the term “gender” is understood to refer to two sexes, male and female, in the context of society. The term “genre” does not indicate any meaning other than the above.

War Crimes

The International Criminal Court has jurisdiction over war crimes, particularly when they are committed as part of a plan or policy or as part of a large-scale commission of such crimes. For the purposes of this Statute, “war crimes” means:

Serious violations of the Geneva Conventions of August 12, 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention: intentional killing, torture or inhuman treatment, including biological experiments, intentional causing of great suffering or serious injury to body or health, Extensive destruction and appropriation of property, unjustified by military necessity and carried out unlawfully and without fault, compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;

With respect to prisoners of war or another person protected by the right to a fair and regular trial, serious violations of the Geneva Conventions mean: Deportation or illegal transfer or illegal detention, Taking hostages, Other serious violations of internationally applicable laws and customs armed conflict, within the established framework of international law, namely, any of the following acts, Intentionally directing attacks against the civilian population as such or against civilians not directly participating in hostilities, Intentionally directing attacks against civilian property, i.e. objects which are not military objectives, Intentionally directing attacks against personnel, installations, material, units or vehicles engaged in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations as long as they are entitled to the protection afforded to civilians or property civil under of the international law of armed conflict, Intentionally launching an attack knowing that such attack will accidentally cause loss of life or injury to civilians or damage to civilian property or widespread, long-term and serious damage to the natural environment that would be manifestly excessive in relation to the general concrete and directly anticipated military advantage, Attacking or bombarding, by any means, towns, villages, houses or buildings which are not defended and which are not military objectives, killing or wounding a combatant who, having laid down his arms or having no means of defense, surrendered at discretion, Improper use of a flag of truce, flag or military insignia and uniform of the enemy or of the United Nations, including as distinctive emblems of the Geneva Conventions, resulting in death or serious bodily injury. The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies or the deportation or transfer of all or parts of the population of those occupying the territory within or outside this territory.

Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments, hospitals and places where the sick and wounded are gathered, provided they are not military objectives, Subjecting

persons in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are not even justified by the medical, dental or hospital treatment of the person in cause nor performed in its interest and which causes the death or seriously endangers the health of such person or persons, Killing or treacherously wounding persons belonging to the hostile nation or army, Destroying or confiscating the property of the enemy, unless such destruction or seizure evil to be imperatively required by the needs of war.

Declaring abolished, suspended or inadmissible in court the rights and actions of citizens of the hostile party, compelling citizens of the hostile party to take part in war operations directed against their own country, even if they were in the service of the belligerent before from the commencement of war, Plundering a city or place, even when taken by assault, Using poison or poisoned weapons, Using asphyxiating, poisonous or other gases and all similar liquids, materials or devices, Using expanding or expanding bullets flattens on contact with the human body, The use of weapons, projectiles and materials and methods of combat which are likely to cause superfluous injury or unnecessary suffering or which are inherently non-discriminatory in violation of the international law of armed conflict, provided that such weapons , projectiles and war materials and methods do object a comprehensive prohibition and are included in an annex to this Statute, through an amendment in accordance with the relevant provisions set out in articles 121 and 123, Committing outrage on personal dignity, especially humiliating and degrading treatment, Committing rape, slavery sexual violence, forced prostitution, forced pregnancy as defined in Article 7, paragraph 2 letter (f), sterilization, or any other form of sexual violence also constituting a serious violation of the Geneva Conventions Use of the presence of a civilian or of another protected person to make certain points, areas or military forces immune from the army, operations.

The Crime of Aggression

1. For the purposes of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position to effectively exercise control over or direct the political or military action of a State, of an act of aggression which, by its character, gravity and extent, constitutes a clear violation of the United Nations Charter.

2. For the purposes of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of whether there is a declaration of war, must, in accordance with United Nations General Assembly resolution 3314 (XXIX) of December 14, 1974, be qualified as an act of aggression:

- (a) The invasion or attack by the armed forces of a State on the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack or any annexation by force of the territory of another State or part thereof;
- (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- (c) Blockade of the ports or coasts of a State by the armed forces of another State;
- (d) An attack by the armed forces of a State on the land, sea or air forces or sea and air fleets of another State;

4 Article 8 bis was introduced by resolution RC/Res.6 of June 11, 2010. The use of the armed forces of a state that is on the territory of another

The state with the agreement of the accredited state, in violation of the conditions stipulated in the agreement or any extension of their presence in this territory beyond the termination of the agreement;

- (f) The action of a State to allow its territory, which it has placed at the disposal of another State, to be used by that other State for the commission of an act of aggression against a third State;
- (g) The sending by or on behalf of a State of armed troops, groups, irregulars or mercenaries, carrying out acts of armed force against another State of their seriousness with respect to the acts enumerated above or its substantial involvement therein.

Competence in the general situation

Ukraine is not a State party to the Rome Statute, but has twice exercised its prerogatives to accept the Court's jurisdiction over alleged Rome Statute crimes occurring on its territory, pursuant to Article 12(3) from the Statute. The first statement submitted by the Government of Ukraine accepted the ICC's jurisdiction over alleged crimes committed on Ukrainian territory between November 21, 2013

and February 22, 2014. The second statement extended this time period on an indefinite basis to include ongoing alleged crimes deployment. the territory of Ukraine since 20 February 2014¹.

On 28 February 2022, the ICC Prosecutor announced that he would request authorization to open an investigation into the situation in Ukraine, based on the Office's previous findings arising from its preliminary examination and covering any new alleged crimes which falls under the jurisdiction of the Court.

On March 1, 2022, the Office received a state party notification from the Republic of Lithuania. On 2 March 2022, the following coordinated group of States Parties submitted a joint referral: the Republic of Albania, the Commonwealth of Australia, the Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, Canada, the Republic of Colombia, the Republic of Costa Rica, the Republic of Croatia, the Republic of Cyprus, the Republic Czech Republic, Kingdom of Denmark, Republic of Estonia, Republic of Finland, Republic of France, Georgia, Federal Republic of Germany, Hellenic Republic, Hungary, Republic of Iceland, Ireland, Republic of Italy, Republic of Latvia, Principality of Liechtenstein, Grand Duchy of Luxembourg, Republic of Malta, New Zealand, Kingdom of Norway, Kingdom of the Netherlands, Republic of Poland, Republic of Portugal, Romania, Slovak Republic, Republic of Slovenia, Kingdom of Spain, Kingdom of Sweden, Swiss Confederation, United Kingdom of Great Britain and Northern Ireland. On March 2, 2022, the prosecutor announced that he had opened an investigation into the situation in Ukraine based on the reports received. In accordance with the general jurisdictional parameters conferred by these notifications and without prejudice to the focus of the investigation, the scope of the situation includes any past and present allegations of war crimes, crimes against humanity or genocide committed in any part of the territory of Ukraine by any person since 21 November 2013.

On March 11, 2022, the prosecutor confirmed that two additional states, Japan and North Macedonia, had submitted the situation in Ukraine to the Office. On 21 March 2022, Montenegro further informed the Office of its decision to join the State party's referral group, and on 1 April 2022, the Republic of Chile joined the State party's referral of the situation.

¹ https://www.europarl.europa.eu/doceo/document/B-9-2022-0284_RO.html

Conclusions

The problem of legal facts in international relations is a constant concern, throughout the history of relations between the states of the world from antiquity to the contemporary period. The idea of preventing them and of the corresponding punishment, by holding them accountable both morally and especially politically or from the point of view of international criminal law, is a topic often addressed by many contemporary experts today. The frequent military conflicts, revolutions, civil wars or revolts, manifested throughout the centuries and especially in the 20th and 21st centuries, have attracted the attention of the international public opinion, which is increasingly interested in holding accountable those guilty of violating the security climate collective, of the violation and violation of fundamental human rights and crimes against humanity. By its statute, the International Criminal Court has two powers: substantive and personal. The material competence presupposes the possibility of the Court to judge and punish natural persons considered guilty of particularly serious crimes, which affect the overall interests of the international community. Personal jurisdiction considers the possibility of the International Criminal Court to judge and determine punishments for natural persons considered guilty of committing the crimes specified above, only if they have reached the age of 18. The official capacity of head of state or government, president of parliament, dignitary or public official does not exonerate the perpetrator of the act from criminal liability before the Court, nor does it constitute a reason for reducing the sentence. Immunities or special rules of procedure accompanying a person's official capacity do not prevent the Court from exercising jurisdiction over the person concerned. The criminal liability of natural persons is an individual liability. Their collective liability is not admitted. The International Criminal Court has jurisdiction over war crimes, particularly when they are committed as part of a plan or policy or as part of a large-scale commission of such crimes, and the conflict in Ukraine provides a good opportunity. verification of human rights standards in the world.

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