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UKRAINE AND THE ROMAN STATUTE

The Rome Statute is an international treaty signed in 1998 to establish the International Criminal Court. It entered into force on July 1, 2002. Currently, 137 countries of the world are signatories to the Rome Statute. Of these, 123 countries have ratified the document: 33 African countries, 19 countries of the Asia-Pacific region, 18 countries of Eastern Europe, 28 countries of Latin America and the Caribbean, and 25 countries of Western Europe. After the ratification of the Rome Statute, the state becomes a member of the International Criminal Court, and crimes committed by its citizens or committed on its territory become subject to trial in The Hague.

Ukraine signed this agreement on January 20, 2000, but the Verkhovna Rada has not yet ratified it. At first, the obstacle to the ratification of the Rome Statute was the conclusion of the Constitutional Court of Ukraine dated July 11, 2001 that the provisions of the Rome Statute, according to which the International Criminal Court "supplements national bodies of criminal justice", were not consistent with the Constitution of Ukraine, which does not provide for the possibility of "supplementing judicial system of Ukraine" [1]. At the moment, many experts in this matter believe that the main reason why Ukraine should not ratify the Rome Statute is that the special competent bodies of foreign countries will receive a bunch of statements from the aggressor country about alleged crimes committed by our military and the same International Criminal Court will give them an assessment. According to experts, this can destabilize the situation in the state, and it can also limit the freedom of discretion of commanders on the battlefield and demotivate the military in general.

Despite this, the Rome Statute provides for the possibility that, even without ratification, a state may recognize the jurisdiction of the International Criminal Court in certain cases. Thus, Ukraine recognized the

jurisdiction of the International Criminal Court on two issues through two statements of the Ministry of Foreign Affairs. They were submitted by the Ministry of Foreign Affairs on April 17, 2014 regarding the Maidan cases and on September 8, 2015 regarding war crimes and crimes against humanity committed on the territory of Ukraine. But then, on March 2, 2022, the chief prosecutor of the International Criminal Court, Karim Khan, interpreted Ukraine's recognition of the court's jurisdiction as including the crime of genocide [4].

But why is the ratification of the Rome Statute important for Ukraine and what are its advantages and disadvantages?

The main importance of this issue is that it is currently the only mechanism for holding Putin and the leaders of the so-called "LPR" and "DPR" accountable at the international level for the crimes committed in Donbas. It is also important because the ratification of the statute is an obligation of Ukraine in accordance with Articles 8 and 24 of the Association Agreement with the EU [5].

Upon ratification of the Rome Statute, Ukraine will have a certain list of positive consequences, namely: a mechanism for direct punishment of those who commit international crimes; stimulation of national investigative bodies to act more effectively, to study a wider range of facts that may indicate the commission of war crimes, to follow international standards of documentation, work with witnesses, etc.; the involvement of the International Criminal Court in the study of the situation in the country immediately revitalizes the national investigation and mobilizes the human rights community; Ukraine will become a full-fledged participant in the process in all structures of the International Criminal Court, including the right to nominate a judge from Ukraine and participate in the elections of the Prosecutor of the Court; victims of international crimes will be able to be involved in the process of considering cases; the decisions of international courts regarding Russia will be a significant factor for the continuation and expansion of the sanctions policy of Ukraine and other states regarding the Russian Federation as an aggressor state.

As for negative consequences, they are also present. For example, the possibility of bringing Ukrainian citizens to justice. In case of ratification of the Statute, its jurisdiction will extend not only to the aggressor state, but also to Ukraine itself. This means that Ukrainian citizens can also be held accountable by the Court. However, this is unlikely. Because: Ukrainian citizens can be prosecuted only for genocide, crimes against humanity, war crimes and crimes of aggression; ordinary soldiers are not able to single-handedly organize the mass destruction of the civilian population, so those who gave criminal orders will be brought to justice; Ukraine is a signatory of the UN Charter, and it confirms the

country's right to self-defence. Another negative consequence is the payment of an additional fee for the work of the International Criminal Court. It is paid by all states that have ratified the Rome Statute. These funds are used to ensure the work of the court. To clarify, in 2020, Ukraine paid 3,827,464.92 euros to the budget of the Council of Europe, including for ensuring the functioning of the European Court of Human Rights. For a state that is financially unstable at this stage, this can have severe consequences for internal development.

Thus, it can be concluded that the issue of ratification of the Rome Statute is very acute for Ukraine. Its ratification has its pros and cons. That is why the state must responsibly approach the solution of this issue.

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