

Problematic Interactions of the ICC with permanent members of the UN Security Council.

A.O BOGOMAZOV - Master student, Law Institute of VISU, Group Yum-120, E-mail: bogomazov-66@mail.ru

L. A. IGOLKINA - Scientific adviser, senior lecturer of the Department of Foreign Languages of Professional Communication, E-mail: lubow.igolckina@yandex.ru

Resume: The International Criminal Court is currently facing serious problems that can call the legitimacy of the court into question. One such problem is the disagreement between the International Criminal Court and the great powers of the world such as Russia and the United States of America. The article presents the possible reasons for these disagreements caused by activities in relation to these countries.

Key words: ICC, Rome Statute, Security Council, Russia, China, USA.

Throughout the twentieth century, the international community has made efforts to combat impunity for international crimes. And finally, in Rome in 1998, a fundamental institution in the field of international criminal justice was created - the International Criminal Court (hereinafter - ICC).

Under article 13 of the Rome Statute, the International Criminal Court is empowered to exercise its jurisdiction in three cases. One of the ways in which the issue of an international criminal court system can be considered is a situation in which the UN Security Council transfers relevant materials to the ICC, acting in accordance with VII of the UN Charter. [5] During the entire existence of the ICC, there have been several similar precedents, for example - 2005, the situation in Darfur (1593) and 2011, Libya (resolution 1970).

It is also worth highlighting that the five permanent members of the Security Council veto any resolution that presents them. That is, their powers will be sufficient to block investigations in those countries that may participate in the

work of the International Criminal Court. This selectivity on the part of the UN Security Council members results in unequal access to justice for serious crimes around the world and undermines the credibility of both the UN Security Council and the ICC. This is an increasingly pressing issue given the large number of documented massive human rights violations in various locations around the world where the ICC does not have jurisdiction [7].

In addition, it must be added that at the moment the relations of the ICC with the world superpowers, including Russia, China and the United States, are in a deplorable state.

Thus, the Rome Statute has not been ratified by the Russian Federation. Perhaps the objective reason for this was the effects of the discrepancy between the Statute and the Constitution of the Russian Federation. The Rome Statute would impose a number of restrictions on the powers of the President and the State Duma.

If we talk about the subjective reasons due to which Russia refused to ratify the Rome Statute, then the current position of the ICC in relation to two conflicts - in Georgia and in Ukraine - can probably be attributed to it [1]. With regard to the events taking place in the southeast of Ukraine, the responsibility of all parties to the conflict (which includes Ukraine, LPR, DPR and Russia) is repeatedly reported [2]. This position of the ICC is contradictory because it does not correspond to reality.

On November 16, 2016, the President of the Russian Federation signed an Order to withdraw Russia's signature under the Statute of the International Criminal Court [4].

It is worth noting that the United States, like Russia, is not a party to the Rome Statute. Thus, the ICC developed a difficult relationship with the United States during the presidency of George W. Bush.[6] The American Servicemen Protection Act of 2002, which outlawed cooperation with the US ICC. More recently, in 2019, former US President Donald Trump criticized the ICC's activities towards the US military.

Unlike the United States, China has few military commitments overseas and is therefore not worried that its troops might one day come under the jurisdiction of the International Criminal Court. However, despite this, the PRC authorities have repeatedly issued a warning against the ICC. Thus, Liu Yang, the representative of the People's Republic of China to the UN, believes that "the ICC should take concrete and effective measures to eliminate its shortcomings and improve the quality of its work in order to respond to the legitimate concerns of the international community about a number of issues" [3].

Thus, based on the critical assessments of some of the permanent member states of the UN Security Council, it can be concluded that today the ICC in its activities is faced with serious problems that it will need to solve in order to reposition itself as a fundamental mechanism for ensuring accountability in international criminal justice. These problems can be overcome if the ICC is prepared to carefully review its own procedures and prosecutorial practices.

However, it should be borne in mind that the ICC is an extreme measure, which is provided for when states are unable or unable to independently carry out criminal proceedings. In our world, unfortunately, there are still many states that are unable to cope with this. Therefore, despite the shortcomings of this mechanism, it is worth recognizing that today the Rome Statute is a new milestone in the creation of a modern system of combating crimes under international law. And if, of course, the position of some of the main members of the UN Security Council were more flexible, this would enable more states to participate in the implementation of this mechanism on more convenient terms.

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