

*Short Reports***RUSSIA AND THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT: RATIFICATION PROBLEMS**

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The short message opened the question about the ratification by Russian Federation the Statute of the International criminal court. There are numerous and formidable political and legal obstacles which don't allow the Russian Federation to ratify the Statute of the ICC soon.

According to the order of the President of the Russian Federation of September 8, 2000 № 394-RP Russia signed the Statute of the ICC, having expressed thereby the approval of the general idea of creation of this body, its purposes and tasks. However so far this document is officially not published and not ratified. We will consider the reasons of that the Russian Federation still didn't ratify the Rome Statute of the International criminal court.

The contradictions existing between separate provisions of the document and a number of articles of the Constitution of the Russian Federation belong to constitutional and legal aspects. For an adequate assessment of prospects of implementation of provisions of the Statute of the ICC defining the basic principles of activity of the International criminal court it is necessary to consider the limits of implementation of norms of international law set by the Constitution of the Russian Federation [3].

Meanwhile a number of provisions of the Statute of the ICC contradict standards of the Constitution of the Russian Federation, including:

1) transfer of persons to court that contradicts the Constitution of the Russian Federation guaranteeing that "the citizen of the Russian Federation can't be sent out of borders of the Russian Federation or is given out to other state";

2) the inadmissibility of the link to official capacity assuming application of the Statute of the ICC to heads of state and government, members of the government and parliament that contradicts the Constitution of the Russian Federation, guaranteeing immunity of the President, members of the Federation Council and the State Duma;

3) the exceptions of the principle of "ne bis in idem" (is impossible to judge twice for the same) contradicting article of the Constitution of the Russian Federation which isn't providing any exceptions of this principle.

Now in the Russian legislation there are no the norms providing transfer of citizens of the country of any international organization or to other state.

This constitutional norm reflects the important principle of citizenship of the Russian Federation which consists that the Russian Federation guarantees to the citizens of the right and freedom, assigned in Constitutions, and also protection and protection to its limits [1].

Further about international legal aspects. As it was noted above, a number of provisions of the Statute of the ICC contradict norms of international law, including norms on immunity of the highest officials from foreign criminal jurisdiction. The question of privileges and immunities in the international criminal law is one of the most actual and sharp, and attempts of its decision unilaterally and by force lead sometimes to serious complications in the international relations.

Besides, the Statute of the ICC contradicts the conventional principles and norms of international law on human rights in the sphere of criminal legal proceedings. So, according to point 7 of article 14 of the International covenant "About the civil and political rights" 1966, "nobody has to be again judged or punished for a crime for which it was already finally condemned or justified according to the law and the criminal procedure right of each country". The same principle is enshrined in article 4 of the Protocol № 7 of the Convention "About Protection of Human Rights and Fundamental Freedoms" of 1950: "Nobody has to be repeatedly judged or punished in a criminal order within jurisdiction of the same state for a crime for which it was already justified or condemned according to the law and criminal procedure norms of this state" [4].

We will specify criminal and legal and criminological aspects. In comparison with the numerous constitutional and legal and international legal problems arising in connection with discussion of a question of ratification of the Statute of the ICC in the sphere of criminal law practically there are no obstacles for its ratification. It is explained by features of a subject of regulation of this act: unlike the majority of the international treaties existing in the sphere of fight against crime, the Statute of the ICC doesn't assign a direct duty to establish criminal liability for the crimes specified in it to the states.

In this regard it must be kept in mind that the norms of the international criminal law regulating responsibility for the heaviest acts are already incorporated in the Russian criminal legislation.

Besides, it is necessary to consider provisions of the principle of legality according to which crime of act, and also it's punish ability and other criminal and legal consequences are defined only by the Code. Thus, criminal prosecution on the basis of other legal act, in particular the Statute

of the ICC, in Russia is excluded. At the same time, the Criminal code is based on the Constitution of the Russian Federation and the conventional principles and norms of international law that gives the chance to consider the Statute of the ICC as a source for improvement of standards of the criminal code of Russian Federation by inclusion of a number of new structures of crimes in it. However it doesn't mean recognition of jurisdiction of the ICC concerning the crimes committed in the territory of Russia or beyond its limits, but against its interests.

The criminological factors operating in the sphere of the international crimes are connected with character and scales of these acts. These factors are the bases of establishment of criminal liability for these or those socially dangerous acts. Statistical data testify that in 2001–2004 in the Russian Federation no more than 1–2 crimes against the world and safety of mankind in a year were registered. This fact testifies to inexpediency of participation of the ICC in the course of criminal prosecution of the persons guilty of commission of similar crimes. The solution of this task is quite of forces to national judicial authorities.

In the conclusion we will consider financial aspect. At a solution of the problem of ratification of

the Statute of the ICC along with legal and political affairs it is necessary to consider also financial aspect of this problem. According to the Statute of the ICC, financing of activity of court is carried out, mainly, at the expense of contributions of the State Parties which size is established by the decision of Assembly of these states.

Now the size of a contribution makes the sum equal to 2,5–3% of the national budget of the country. That exceeds expenses on all judicial system of the country by 2–3 times. Our country will go to such expenses as they aren't justified [1].

Thus, there are numerous and formidable political and legal obstacles which don't allow our country to ratify the Statute of the ICC soon.

#### References

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