

**ACCOUNTABILITY FOR INTERNATIONAL CRIMES
AND OTHER GROSS HUMAN RIGHTS VIOLATIONS
IN THE PEACE NEGOTIATIONS BETWEEN UKRAINE AND RUSSIA
AND THE POTENTIAL FUTURE PEACE AGREEMENT**

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Abstract

This article addresses several key issues related to the place of the issues of accountability for international crimes and grave human rights abuses in the peace negotiations and the potential ‘peace agreement’ between Ukraine and Russia. Following an overview of the Russian political demands raised so far (as of July 2025) and layers of the ongoing accountability process, the article analyses how the nature of the potential “peace deal” (including concerns about its avoidance) may impact provisions on the accountability questions. It further outlines the core of the fundamental international law principle of non-interference into domestic affairs of another state (including criminal justice policies). The article also examines Ukraine’s international obligations to prosecute certain types of conduct amounting to international crimes in any circumstances, (im-)permissibility of amnesties, potential impact on the International Criminal Court’s jurisdiction, and the withdrawal of reparations claims for the most serious violations of international law, including international crimes.

Keywords: *accountability, international crimes, peace agreement, peace process, international criminal law, amnesties, reparations.*

**ВІДПОВІДАЛЬНІСТЬ ЗА МІЖНАРОДНІ ЗЛОЧИНИ
ТА ІНШІ ГРУБІ ПОРУШЕННЯ ПРАВ ЛЮДИНИ В МИРНИХ
ПЕРЕГОВОРАХ МІЖ УКРАЇНОЮ ТА РОСІЄЮ ТА ПОТЕНЦІЙНІЙ
МАЙБУТНІЙ МИРНІЙ УГОДІ**

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Анотація

У цій статті розглядається кілька основоположних питань, пов’язаних з відповідальністю за міжнародні злочини та серйозні порушення прав людини в мирних пе-

реговорах та потенційній 'мирній' угоді між Україною та Росією. Після огляду озвучених до сьогодні (станом на липень 2025 року) політичних вимог Росії та різних рівнів поточного процесу притягнення до відповідальності за міжнародні злочини, стаття аналізує, як природа потенційної "мирної угоди" (включаючи питання її нікчемності) може вплинути на положення щодо питань відповідальності за міжнародні злочини. Далі стаття окреслює суть фундаментального принципу міжнародного права невтручання у внутрішні справи іншої держави (зокрема політику кримінального правосуддя). У статті також розглядаються міжнародні зобов'язання України щодо переслідування певних видів діянь, які становлять міжнародні злочини, за будь-яких обставин, (не-) припустимість амністій, потенційний вплив на юрисдикцію Міжнародного кримінального суду та відкликання вимог про репарації за найтяжчі порушення міжнародного права, включаючи міжнародні злочини.

Ключові слова: відповідальність, міжнародні злочини, мирна угода, мирний процес, міжнародне кримінальне право, амністії, репарації.

Introduction

Accountability for international crimes and human rights violations committed in the course of the Russian aggression against Ukraine has been one of the key blocks in the negotiation process between Russia and Ukraine, renewed in spring 2025. Ukraine's position has been and remains unequivocal: in any form of the war's future resolution, Russia must be obliged to pay reparations for its wrongful conduct.¹ In contrast, Russia has raised several political demands potentially able to jeopardise the accountability efforts. During Istanbul negotiations in March 2022, Russia demanded that Ukraine withdrew declarations recognising the jurisdiction of the International Criminal Court ('ICC'), and Ukraine refused.² Three years later, in 2025, Russia returned to Istanbul this time demanding that Ukraine "grant[s] amnesties to "political prisoners" and release[s] "detained military and civilian individuals" (which can imply those convicted or prosecuted for both international crimes and crimes against national security, such as treason or collaboration), as well as "waive[s] any war reparation claims".³ Previous allegations were additionally spread (and have been proved mainly untrue to date) that Russia can use the influence of the third states promoting the negotiations efforts to demand Ukraine

¹ See, e.g., 'Ukrainian proposals for June 2 talks with Russia in Istanbul' (Reuters, 1 June 2025), URL: <https://www.reuters.com/world/europe/ukrainian-proposals-june-2-talks-with-russia-istanbul-2025-06-01/> [accessed on 22 July 2025].

² M. Colchester, T. Grove, J. Marson, 'Document From 2022 Reveals Putin's Punishing Terms for Peace' (The Wall Street Journal, 1 March 2024), URL: https://www.wsj.com/world/russia-ukraine-peace-deal-2022-document-6e12e093?mod=Searchresults_pos1&page=1 [accessed on 22 July 2025].

³ 'Russia expands its maximalist demands at Istanbul talks' (The New Voice of Ukraine, 2 June 2025), URL: <https://english.nv.ua/russian-war/moscow-expands-its-maximalist-demands-at-istanbul-50518953.html> [accessed on 22 July 2025].

to drop international crimes cases and halt other accountability efforts domestically and internationally.⁴

So far, the landscape of Ukraine's accountability efforts consists of at least three fundamental layers. Firstly, at the domestic level, Ukraine has initiated and maintained international crimes cases on war crimes (since 2014, but especially since the full-scale invasion of 2022), the crime of aggression, and the crime of genocide. As of July 2025, Ukraine is also about to launch crimes against humanity cases, following the introduction of these crimes in the Criminal Code after the Rome Statute ratification in October 2024, which will now open a whole new track of prosecutions. Additionally, Ukraine has initiated multiple cases into various crimes against national security, such as collaboration or treason. Secondly, on the international level, the investigation into international crimes committed by Russia and its proxies on the territory of Ukraine since 2014 has been ongoing before the ICC since March 2022, with six arrest warrants issued for war crimes and crimes against humanity as of July 2025. The Special Tribunal for the Crime of Aggression against Ukraine was established under the auspices of the Council of Europe. The case initiated by Ukraine is also ongoing before the International Court of Justice, albeit it does not concern the accountability for international crimes *per se*. Thirdly, Ukraine and its allies are keeping track of the future reparations to be paid for the atrocities, including via maintaining the Register of Damage for Ukraine (also bearing in mind the limited capacity of the ICC's Victim Fund that has not been currently utilised).

Russian political demands — if implemented — may potentially impact or jeopardise all of these tracks. Analysing any voiced or potential demands from the perspective of international law entails at least five major fundamental considerations, namely:

- (i) The nature of any future potential 'peace deal', including its (in-)validity under the law of treaties.
- (ii) The role of the principle of non-intervention in states' sovereign domestic affairs.
- (iii) Ukraine's own international obligations to prosecute certain types of conduct, particularly international crimes, as well as its discretion to abandon certain prosecutions (including through amnesties).
- (iv) International courts' role in maintaining further justice processes and the peace negotiations' potential impact on it.
- (v) Reparations and the possibility of a state to withdraw the claims for reparations.

⁴ F. Wesslau, 'Establish an international tribunal for aggression against Ukraine before it's too late' (Politico, 18 March 2025), URL: <https://www.politico.eu/article/establish-an-international-tribunal-for-aggression-against-ukraine-before-its-too-late/> [accessed on 22 July 2025].

The (in-)validity of the ‘peace deal’

The first umbrella question to ask is what the nature of the potential ‘peace deal’ will be from the perspective of the law of treaties, i.e., whether such a ‘peace deal’ may be considered a legitimate treaty legally binding upon Ukraine. Fundamental rule in Article 52 of the Vienna Convention of the Law of Treaties (also reflective of customary international law) provides that “a treaty is void if its conclusion has been procured by the threat or use of force”.⁵

The choice of the word “void” in the article is not accidental. A forced treaty is void entirely and *ab initio*, i.e., since the very moment of its conclusion.⁶ Firstly, the rule indicates that a forced treaty does not exist as a matter of legal fact: it is a legal fiction, a legal fake, that does not produce any consequences and creates neither the obligations for a victim state nor rights for an aggressor state.⁷ Secondly, the provisions of the void treaty procured through force or threat thereof are inseparable.⁸ This entails that whatever provisions are prescribed by it — from territorial concessions to accountability issues - are void by association altogether.

On a practical level, it means that even if Ukraine is forced to follow the potential ‘deal’ due to political pressure, legally it will be entitled to legitimately declare non-compliance with its provisions relying on the treaty’s voidance regardless of the time passing (as long as the unlawful force or threat thereof continues). This applies to the situations even beyond the active stage of hostilities. Even if hostilities cease but even an inch or meter of Ukrainian territory is occupied by Russia, belligerent occupation amounts to a continuing armed attack,⁹ and, therefore, an act of use of force that persists.

Therefore, the first most basic and fundamental conclusion entails that regardless of the content of Russian demands on the accountability issues to be enshrined in any potential ‘peace deal’, provisions enshrining such issues (at least, in the current settings) will be void provisions as long as the use of force or threat thereof persists.

⁵ Vienna Convention on the Law of Treaties, 1155 United Nations Treaty Series 331 (23 May 1969), Article 52.

⁶ *Ibid.*, Articles 44(5), 69(1)). See also K. Schmalenbach, ‘Article 52’, in O. Dörr, K. Schmalenbach (eds.), *Vienna Convention on the Law of Treaties. A Commentary* (2nd ed., Springer, 2018), p. 955.

⁷ For further discussion see M. Vishchyk, J. Pizzi, ‘Compromises on Territory, Legal Order, and World Peace: The Fate of International Law Lies on Ukraine’s Borders’ (Just Security, 6 October 2023), URL: <https://www.justsecurity.org/89216/compromises-on-territory-legal-order-and-world-peace-the-fate-of-international-law-lies-on-ukraines-borders/> [accessed on 22 July 2025]; M. Vishchyk, J. Pizzi, ‘The Voices from Kyiv: Is the World Legal Order in Decay?’ (Just Security, 26 February 2025), URL: <https://www.justsecurity.org/108358/kyiv-world-legal-order-decay-2/> [accessed on 22 July 2025].

⁸ Vienna Convention on the Law of Treaties, 1155 United Nations Treaty Series 331 (23 May 1969), Article 44(5).

⁹ D. Akande, A. Tzanakopoulos, ‘Use of Force in Self-Defence to Recover Occupied Territory: When Is It Permissible?’ (EJIL.Talk!, 18 November 2020), URL: <https://www.ejiltalk.org/use-of-force-in-self-defence-to-recover-occupied-territory-when-is-it-permissible/> [accessed on 22 July 2025].

It will, therefore, entitle Ukraine to legitimate non-compliance with such provisions at any moment even if political pressure coerces Ukraine into following the demands.

The principle of non-intervention in state's domestic affairs

Beyond the question of the potential 'peace deal's' (in-)validity, Russian demands regarding the accountability efforts *prima facie* constitute a violation of one of the most fundamental principles¹⁰ of the contemporary international legal order — the prohibition of intervention in another state's domestic affairs.

The principle of non-intervention protects sovereign equality of all states and prevents every state from interfering in another state's sovereign domain, namely in the right to freely choose, among others, state's internal political and social system, as well as foreign policy choices.¹¹ The rule prohibits any forms of armed intervention, and other forms of military, political, economic or other types of coercion designed to coerce another state into changing the matters within its sovereign domain.¹²

Even setting aside the issue of the voidance of a potential 'peace deal', the imposition of Russian conditions regarding the accountability processes on Ukraine would constitute a breach of the non-intervention principle. The choice of criminal justice policies, including the scope of the conduct for domestic prosecution, lies within Ukraine's sovereign domain. The same conclusion relates to the Ukrainian foreign policy choices aimed at securing accountability for international crimes and other grave human rights violations. As such, Russian coercive interference with such choices would amount to an impermissible intervention with Ukraine's sovereign domain in breach of the fundamental international law principle.

Ukraine's international obligations regarding international crimes' prosecutions

Regardless of what Russia's imposed political conditions are, apart from the obvious international law limitations of the deal's voidance and violation of the non-

¹⁰ *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Reparations, Judgment, 2022 ICJ Reports 13, para. 65.

¹¹ United Nations General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, UN Doc. A/RES/2625(XXV) (1970), p. 123; United Nations General Assembly, Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, UN Doc. A/RES/20/2131 (21 December 1965), para. 5; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, Judgment, 1986 Reports 14, para. 205.

¹² Organisation for Security and Co-operation in Europe, Helsinki Final Act (1975), Principle VI, p. 4; United Nations General Assembly, Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, UN Doc. A/RES/20/2131 (21 December 1965), para. 1.

intervention principle, Ukraine is also restricted by its own international obligations to prosecute international crimes.

International law imposes unequivocal and unconditional obligations upon states to prosecute acts amounting to the crime of genocide and war crimes. Articles IV to VI of the Genocide Convention impose an obligation on states to try and punish the acts of genocide and associated offences regardless of the identity and official status of perpetrators, with no prescribed exception.¹³ Similarly, the 1949 Geneva Conventions and the First Additional Protocol thereto enshrine an obligation “to search for persons alleged to have committed, or to have ordered to be committed, [...] grave breaches [of international humanitarian law]” and to “bring such persons, regardless of their nationality” to justice.¹⁴ Although the same treaty obligation is missing in relation to crimes against humanity (due to the absence of the respective Convention), such obligation arguably exists under customary international law.¹⁵

Therefore, it is not a matter of Ukraine’s choice whether to maintain prosecutions for international crimes or abandon them: Ukraine bears an unconditional obligation to do so (regardless of any alleged political settings and compromises) in relation to, at least, the crime of genocide and war crimes. This logic equally applies to the possibility of granting amnesties. The unequivocal wording of the aforementioned provisions in the Genocide Convention, the Geneva Conventions and the First Additional Protocol thereto leaves no space for amnesties for such crimes. To the contrary, granting amnesties would amount to an internationally wrongful act. At the same time, the question of whether amnesties can apply to crimes against humanity remains a debatable one: state practice and *opinio juris* do not seem to be consistent enough to indicate the existence of the unconditional customary prohibition of amnesties.¹⁶ However, there are several treaty exceptions — notably related to the

¹³ Convention on the Prevention and Punishment of the Crime of Genocide, 78 United Nations Treaty Series 277 (9 December 1948).

¹⁴ Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva, 12 August 1949), Article 49; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Geneva, 12 August 1949), Article 50; Convention (III) relative to the Treatment of Prisoners of War (Geneva, 12 August 1949), Article 129; Convention (IV) relative to the Protection of Civilian Persons in Time of War (Geneva, 12 August 1949), Article 146; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (8 June 1977), Article 85.

¹⁵ See, e.g., as a potential indication: International Law Commission (‘ILC’), ‘Draft Code of Crimes against the Peace and Security of Mankind’, *Yearbook of the ILC*, 1996, vol. II (Part Two), URL: https://legal.un.org/ilc/texts/instruments/english/draft_articles/7_4_1996.pdf [accessed on 22 July 2025], Articles 8-9.

¹⁶ A. Seibert-Fohr, ‘Amnesties’ (Max Planck Encyclopedia of Public International Law, February 2018), URL: <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e750?prd=OPIL> [accessed on 22 July 2025], para. 17.

crimes of torture and enforced disappearances — imposing specific obligations on states to prosecute the alleged offenders of the crimes in question.¹⁷

The ICC's role in maintaining justice for atrocities

Going beyond the domestic level, another outstanding question is the influence of the peace negotiations and the potential 'peace deal' on the international justice processes, particularly by the ICC (in light of Russia's 2022 demands to Ukraine to withdraw the declarations recognising the Court's jurisdiction). Is it possible for Ukraine — as a matter of forced or voluntary concessions as a consequence of negotiations — to affect the ICC's operations?

In 2014 and 2015 respectively, Ukraine issued two declarations granting the ICC jurisdiction in relation to international crimes committed on the Ukrainian territory from 21 November 2013 onwards in conformity with Article 12(3) of the Rome Statute.¹⁸ In a hypothetical scenario, if Ukraine had decided to "withdraw" the declarations in March 2022 (as Russia demanded), would it have deprived the ICC of its jurisdiction over the crimes committed in the territory of Ukraine? One argument would suggest that while the Rome Statute does provide for the possibility of recognising the jurisdiction by virtue of a unilateral declaration, no provisions govern the possibility of withdrawing such declaration which may imply that this procedure is precluded. A contrary argument would suggest that since the recognition of the Court's jurisdiction by the declaration is a unilateral act of state, it may be equally possible for a state to amend the previously adopted unilateral act by amending its temporal scope (e.g., suspending its force). However, even in such a scenario, it is certain that a new unilateral act would only possibly affect the jurisdiction prospectively, not retroactively. Even if a state may arguably terminate the declaration's effect for the future, it cannot simply undo the Court's jurisdiction for the past when it decides to do so. Otherwise, it would create a risk of states jeopardising judicial integrity every time the political climate changes or if a state finds the Court's operations detrimental to its political interests.

¹⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 United Nations Treaty Series 85 (10 December 1984), Article 7; International Convention for the Protection of All Persons from Enforced Disappearance, 2716 United Nations Treaty Series 3 (20 December 2016), Article 11

¹⁸ Declaration of the Government of Ukraine recognising the jurisdiction of the International Criminal Court (9 April 2014), URL: <https://www.icc-cpi.int/sites/default/files/itemsDocuments/997/declarationRecognitionJurisdiction09-04-2014.pdf>, [accessed on 22 July 2025]; Resolution of the Verkhovna Rada of Ukraine 'On the Declaration of the Verkhovna Rada of Ukraine «On the recognition of the jurisdiction of the International Criminal Court by Ukraine over crimes against humanity and war crimes committed by senior officials of the Russian Federation and leaders of terrorist organizations "DNR" and "LNR", which led to extremely grave consequences and mass murder Ukrainian nationals' (4 February 2015), URL: https://www.icc-cpi.int/sites/default/files/iccdocs/other/Ukraine_Art_12-3_declaration_08092015.pdf#search=ukraine [accessed on 22 July 2025].

Additionally, since Ukraine ratified the Rome Statute in 2024, the ratification created a separate, independent (from declarations) basis for the jurisdiction starting from 1 January 2025. This means that Ukrainian government's decisions can only affect the Court's jurisdiction in one way: by virtue of withdrawing from the Rome Statute in accordance with Article 127.¹⁹ The provision prescribes that a state party to the Statute "may, by written notification addressed to the Secretary-General of the United Nations, withdraw from [the] Statute" with the withdrawal taking effect "one year after the date of receipt of the notification, unless the notification specifies a later date".²⁰ However, even such a withdrawal does not discharge a state from the obligations under the Statute for the period while it was a party, including the duty to cooperate with the Court.²¹ Thus, even if Ukraine decided to withdraw from the Statute as a result of the negotiation process, such withdrawal would not affect the Court's jurisdiction in relation to the past events and will only enter into force at least one year after the notification. In any event, similar to the discussion on the nature of the potential 'peace deal' above, if any unilateral act (including withdrawal) has been procured through the use of force or threat thereof, such an act would be void under international law.²²

Therefore, while the ICC's jurisdiction may hypothetically be affected in the course of negotiations, it can only happen prospectively, not retroactively, while any unilateral action of the Ukrainian government procured through the use of force or threat thereof will be void under international law.

Reparation claims and their withdrawal

Lastly, one of the Russian demands concerned the withdrawal of any Ukraine's reparation claims for the damage inflicted in the course of the armed conflict.

Customary international law codified in International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts ('ARSIWA') prescribes that any internationally wrongful act imposes an obligation on a state "to make full reparation for the injury caused" in a form of restitution, compensation and/or satisfaction (depending on circumstances).²³ In the Ukrainian context, such obligation particularly arises in relation to the Russian act of aggression and all accompanying other international

¹⁹ Rome Statute of the International Criminal Court, 2187 United Nations Treaty Series 90 (17 July 1998), Article 127.

²⁰ *Ibid.*, Article 127(1).

²¹ *Ibid.*, Article 127(2).

²² By virtue of conflicting with a peremptory prohibition of the use of force or threat thereof: see ILC, 'Guiding Principles applicable to unilateral declarations of States capable of creating legal obligations, with commentaries thereto', Yearbook of the ILC, 2006, vol. II, Part Two, URL: https://legal.un.org/ilc/texts/instruments/english/commentaries/9_9_2006.pdf [accessed on 22 July 2025], Conclusion 8.

²³ ILC, 'Responsibility of States for Internationally Wrongful Acts', Yearbook of the ILC, 2001, vol. II (Part Two), URL: https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf [accessed on 22 July 2025], Articles 31, 34-37.

crimes and gross human rights violations. The entitlement to reparations arises from the very fact of the commission of an internationally wrongful act and does not require any additional judicial pronouncement qualifying an act as a wrongful one.

At the same time, is there a possibility for a victim state to abandon its reparation claims? Article 45 of ARSIWA indicates that “the responsibility of a State may not be invoked if [...] the injured State has *validly* waived the claim [emphasis added].”²⁴ The use of the word “validly” is of critical importance. The waiver is only effective if it is valid under international law.²⁵ The use of force or threat thereof invalidates the waiver.²⁶ Here too, the prohibition of the use of force as a cornerstone of the contemporary world order significantly affects the validity of the Russian demands, and even if Ukraine is forced to formally waive reparation claims in any potential ‘peace deal’ under the coercion, it will be entitled to raise them again at any further moment.

A broader, more hypothetical question is whether if Ukraine — formally — validly waived its reparations claims (assuming that the use of force or threats thereof no longer persist), such waiver can nevertheless touch upon Ukraine’s human rights law obligations to its citizens. A rhetorical but important question is whether international human rights law obliges a state to pursue and maintain reparation claims internationally as a remedy for atrocities suffered by its population, especially if no alternative venue exists to obtain such reparations. The question is unsettled, but certain arguments can be made by comparison with the approach of the European Court of Human Rights in *Ilaşcu and Others* and subsequent related judgments. The Court ruled that even when a sovereign state is deprived of a control over its territory due to, *inter alia*, belligerent occupation, it preserves a residual positive obligation to “endeavour, with all the legal and diplomatic means available to it vis-à-vis foreign States and international organisations, to continue to guarantee the enjoyment of the rights and freedoms” in such territory.²⁷ Although the situation and issues discussed are not specifically identical to the reparations claims’ issue, it is worth considering whether a state whose population suffered from atrocities committed by another state bears a similar obligation to attempt to secure by available legal and diplomatic means reparations for damages to its population.

Conclusions

While the Russian government has blatantly disregarded its multiple international obligations in the course of its aggression against Ukraine, it continues to keep track of

²⁴ *Ibid.*, Article 45(a).

²⁵ ILC, ‘Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries’, *Yearbook of the ILC*, 2001, vol. II, Part Two, as corrected, URL: https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf [accessed on 22 July 2025], p. 122, para. 4.

²⁶ *Ibid.*

²⁷ *Ilaşcu and Others v. Moldova and Russia*, App. No. 48787/99, 8 July 2004, para. 333.

the accountability processes in its demands voiced during the negotiations with Ukraine. Therefore, one should not be surprised that Russia will continue pushing for its conditions related to the accountability issues in any potential future ‘peace deal’. However, regardless of what Russia’s demands are and how hard it pushes, several fundamental conclusions clearly stem from the analysis of applicable international law rules:

As long as Russia’s use of force or threat thereof persists, any so-called ‘peace deal’ will be null and void, creating no legal consequences for Ukraine and entitling Ukraine to legitimate non-compliance. This conclusion relates to *all* potential issues in the ‘peace deal’ — from territorial concessions to accountability and reparations. Even if Ukraine is politically compelled to comply with such demands, at any moment — as long as unlawful coercion or threat thereof continues — it can declare that it is not bound by the imposed treaty.

Russia’s coercive attempts to influence Ukraine’s accountability efforts — both domestically and internationally — constitute a prohibited form of intervention into sovereign internal affairs, since the issues of criminal justice policies (including international crimes prosecutions) belong to a social field of life within every state’s sovereign domain.

Ukraine cannot abandon prosecutions for international crimes in light of its international obligations under various treaty and customary international law rules, particularly the Genocide Convention, the 1949 Geneva Conventions and the First Additional Protocol thereto. Similarly, Ukraine cannot grant amnesties for war crimes and genocide (while the situation with crimes against humanity remains more nuanced — except for the crimes of torture and enforced disappearances).

Russia’s demands to Ukraine to withdraw declarations recognising the ICC’s jurisdiction would have no proactive effect on jurisdiction whatsoever. In the current settings, it is especially so given the ratification which created an independent basis for the Court’s jurisdiction over the crimes committed on Ukrainian soil. Even if hypothetically, Ukraine was forced to withdraw from the ICC, it would not retroactively affect the scope of temporal jurisdiction, but only proactively. At the same time, such a coerced unilateral act would be inherently void under international law.

Finally, Ukraine cannot validly waive the reparations claims as long as the use of force or threat thereof persists. Even if the force of threats thereof stopped, the question would stand as to whether international human rights law obliges Ukraine to continue pursuing reparations’ claims for its citizens in cases of international crimes and gross human rights violations.

All in all, accountability is a long road, and sometimes it may seem that we do not see the light at the end of the tunnel. But this should not be an obstacle in itself as long as the justice processes are moving and on track. Regardless of how badly Russia wants to halt or jeopardise these processes, none of its adopted tactics would pass the test of international law.

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