

The ICC Arrest Warrant against Vladimir Putin: Challenges of Prosecuting a Non-Member Head of State for War Crimes in Ukraine

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Abstract

This research examines the ICC arrest warrant issued against Vladimir Putin in connection with Russia's invasion of Ukraine and analyzes the legal and practical challenges the ICC faces in exercising jurisdiction over the head of state of a non-member state. Moreover, this research analyzes the legal basis for ICC jurisdiction on Ukraine, which accepted the jurisdiction of the court under Article 12(3) of the Rome Statute and the principle of the absence of immunity of State officials from international criminal responsibility. The court's dependence on the cooperation of states in executing arrest warrants, the impact of geopolitical considerations on the effectiveness of international criminal justice, are the main political and legal obstacles to prosecuting the head of state of a non-member state. This study, using a descriptive-analytical method in analyzing international law documents, shows that the ICC has legal jurisdiction to investigate crimes committed in Ukraine; political resistance and structural limitations of the international system are the main challenges to exercising this jurisdiction. The arrest warrant for Vladimir Putin is an example of the tension between legal legitimacy and political realities in the application of international criminal justice.

Key words: ICC, Arrest Warrant, Head of State Immunity.

Introduction

The Crimean peninsula was occupied by Russia in 2014 and annexed to the Russian Federation, which is considered a turning point in international relations after the Cold War, because it violated international law and Ukraine's sovereignty.² This incident started the conflict between the Ukrainian government forces and the Russian-backed separatist detachment in Donetsk and Luhansk regions, and the number of dead reached more than 14 thousand people by the beginning of 2022. In 2014 and until 2015, Ukraine, France, Russia signed several agreements, the so-called Minsk agreements, that led to a reduction in the conflict, but could not end the war completely. After the Russian forces attacked Ukraine's borders widely, along with the recognition of the independence of the two separatist regions in 2022, Russia escalated its attacks on Ukraine from different directions, and the war entered a new and bloody stage.³

After these events, the prosecutor of the ICC announced in 2022 that he intends to request permission to investigate the situation in Ukraine, especially war crimes and crimes against humanity. The case was then referred to the ICC by 39 member states of the Rome Statute, leading to the initiation of an investigation into crimes committed since November 2013.⁴ Therefore, Ukraine was not a party to the Rome Statute, but in two separate

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² Sasse Gwendolyn, "Revisiting the 2014 Annexation of Crimea," Carnegie Endowment for International Peace, accessed October 19, 2025, <https://carnegieendowment.org/posts/2017/03/revisiting-the-2014-annexation-of-crimea?lang=en>.

³ "Conflict in Ukraine's Donbas: A Visual Explainer | International Crisis Group," 2024, <https://www.crisisgroup.org/visual-explainers/conflict-ukraines-donbas-visual-explainer>.

⁴ The Hague: ICC, "Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation | International Criminal Court," 2022, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-situation-ukraine-receipt-referrals-39-states>.

conventions, it gave the ICC jurisdiction to investigate crimes committed within its territory. The first convention was for investigation and prosecution for crimes committed from November 21, 2013, to February 22, 2014, and in the second convention, a broader time frame was included, allowing the investigation of all crimes committed from February 20, 2014, to be extended indefinitely.⁵

Finally, Ukraine became a member of the Rome Statute on October 25, 2024, and this ratification took effect officially on January 1, 2025. On March 17, 2023, ICC issued arrest warrants against Mr. Vladimir Vladimirovich Putin, President of the Russian Federation, and Ms. Maria Alekseyevna Lvova-Belova, Commissioner for Children's Rights in the Office of the President of the Russian Federation, in charge of war crimes in Ukraine, which include illegal deportation and transformation of children, and claimed there are solid reasons for the verdict.⁶ However, since Russia is not a party to the Rome Statute, exercising jurisdiction over the president of this country faces significant legal challenges. This issue significantly limits the ICC's ability to enforce its jurisdiction. This situation reveals a fundamental gap in international law and illustrates the difficulty of prosecuting war crimes and crimes against humanity committed by heads of state within the territory of non-state parties. This situation sparked crucial questions regarding the international criminal justice system's effective mechanisms, and powerful states refuse to recognize its jurisdiction.

Problem Formulation

How can the ICC exercise jurisdiction over the head of a state (Russia) that is not a party to the Rome Statute?

Methodology

This study uses the normative legal research method to analyze legal sources, including Articles 5 to 8, 12(3), 27, and 98 of the Rome Statute. In addition, it uses secondary sources such as books, academic articles, and international reports to examine the issue of immunity of heads of state and the jurisdiction of the ICC. This study also uses the theory of legitimacy in international law and the political realities of international relations to examine the legal and political challenges of prosecuting heads of state who are not members.

Result and discussion

Legal Basis of ICC Jurisdiction over the Situation in Ukraine

Ukraine's acceptance of ICC jurisdiction Article 12(3)

The ICC is an independent and permanent court that has the authority to deal with crimes that are considered the most serious crimes at the international level. If a country is not a member of the Rome Statute, it can submit a declaration under Article 12 (3) of the

⁵ ICC, "Ukraine | International Criminal Court," 2024, <https://www.icc-cpi.int/situations/ukraine>.

⁶ ICC.

Rome Statute and accept the jurisdiction of the ICC. According to this article, Ukraine accepted the jurisdiction of the ICC to deal with the alleged crimes committed in its territory from November 21, 2013, to February 22, 2014, and requested to deal with these crimes.⁷ On 8 September 2015, Ukraine, for the second time, in the declaration under the same article of the Rome Statute, accepted ICC's jurisdiction over the crimes committed in its territory on February 20, 2014, for an indefinite period. Since Ukraine was not a member of the Rome Statute, this declaration caused legal debates. Because it empowers countries to bilaterally accept the jurisdiction of the ICC in the context of international crimes such as war crimes.⁸

After the ratification of the Rome Statute, Ukraine signed it, but in 2004, the Constitutional Court of this country called the Rome Statute contrary to the Constitution and refused to join it. In 2016, it was decided to amend the constitution to recognize the jurisdiction of the court, but the approval process was postponed. In 2024, the law approving the Rome Statute was approved by the parliament, the government of Ukraine, and signed by the president of this country.⁹ After the ratification document was delivered to the United Nations in 2024, the Rome Statute officially entered into force on January 1, 2025.¹⁰ Ukraine was the first country to use the provisions of Article 124 of this Rome Statute because Ukraine declared when it joined the statute that this country would not accept the jurisdiction of the ICC for seven years regarding the war crimes committed by its citizens. This article gives the new member states temporary jurisdiction to be exempted from certain crimes.¹¹

Rome Statute provisions relevant to the case

Since Ukraine is a member of the Rome Statute, the court takes jurisdiction over the crimes committed inside Ukraine from the provisions of Articles 5 to 8, 27, and 98 of the Rome Statute. Serious international crimes such as genocide, crimes against humanity, war crimes, and the crime of aggression are within the jurisdiction of the court based on articles 5-8 of the Rome Statute.¹² Therefore, illegal forced placement and transfer of civilians, including children, attacking civilian infrastructure, and other serious violations of the international humanitarian law are crimes that have been committed in Ukraine, are recognized as war crimes according to Articles 7-8 of the Rome Statute. According to the report of the Independent International Commission of Inquiry on Ukraine, all actions,

⁷ "Ukraine Accepts ICC Jurisdiction over Alleged Crimes Committed since 20 February 2014 | International Criminal Court," accessed October 19, 2025, <https://www.icc-cpi.int/news/ukraine-accepts-icc-jurisdiction-over-alleged-crimes-committed-20-february-2014>.

⁸ "Ukraine Accepts ICC Jurisdiction over Alleged Crimes Committed since 20 February 2014 | International Criminal Court."

⁹ "Ukraine Becomes the 125th State Party to the ICC Rome Statute | Coalition for the International Criminal Court," 2025, <https://www.coalitionfortheicc.org/ukraine-becomes-125th-ICC-state-party>.

¹⁰ United Nations, Secretary-General (as Depositary of the Rome Statute), "Rome Statute of the International Criminal Court – Ukraine: Ratification," New York, October 25, 2024.

¹¹ "Ukraine Becomes the 125th State Party to the ICC Rome Statute | Coalition for the International Criminal Court."

¹² Knut Dörmann, "War Crimes under the Rome Statute of the International Criminal Court, with a Special Focus on the Negotiations on the Elements of Crimes," *Max Planck Yearbook of United Nations Law* 7 (2003): 341-407 P. 343, https://www.mpil.de/files/pdf3/mpunyb_doermann_7.pdf?utm_source.

such as the deportation of Ukrainian children to areas controlled by Russia or into Russian territory, are war crimes, which are within the jurisdiction of the ICC.¹³

Article 27 of the Rome Statute expresses the principle of "insignificance of official authority" in relation to criminal liability for acts within the jurisdiction of the International Criminal Court. Therefore, any person, even officials such as the head of government, member of government or parliament, elected representative or government official, is not exempt from criminal responsibility according to the Rome Statute.¹⁴ As a result, the President of Russia's Vladimir Putin, is responsible, according to this article, and the arrest warrant of March 2023 shows that he is not immune from criminal responsibility.¹⁵

According to the provisions of Article 98 of the Rome Statute, this article tries to establish a balance between international criminal justice and the sovereignty of nations. Therefore, governments can refuse to cooperate with the ICC if cooperation with the ICC causes violations of the countries' obligations in the field of diplomatic or governmental immunity.¹⁶ In addition, maintaining diplomatic relations and respecting international laws form the basis of this article, but the country's practice using the provisions of this article can irresponsibly refuse to fulfill its obligations, such as Russia, which is not a member of the Rome Statute, can invoke the immunity of its officials in the execution of the arrest warrants of Russian officials, and pose a serious challenge to the administration of justice.¹⁷

Referral and investigation process, and an arrest Warrant against Vladimir Putin

On February 28, 2022, the prosecutor of the International Criminal Court announced that he wants to start an investigation into the situation in Ukraine and the alleged crimes. The next day, Lithuania and, later on, more than 35 member countries of the Rome Statute, including France, Germany, Great Britain, Canada, and Australia, jointly referred this case to the ICC for consideration.¹⁸ This act made the prosecutor officially start his investigation into war crimes, crimes against humanity, and genocide after November 21, 2013, which happened within the territory of Ukraine. Later, countries joining this process, such as Japan, North Macedonia, Montenegro, and Chile, strengthened the importance of the issue and showed that there is strong international support for accountability and justice for the crimes committed in Ukraine.¹⁹

¹³ Dmytro Lubinets, "Political Assessment and Legal Classification of the Actions of the Aggressor State towards Ukrainian Children - Unbloomed - Special Report of the Ukrainian Parliament Commissioner for Human Rights," accessed October 19, 2025, <https://ombudsman.gov.ua/childrenofwar-2023/en/political-assessment-and-legal-classification-of-the-actions-of-the-aggressor-state-towards-ukrainian-children/>

¹⁴ Frankline Chisom Ebere and Amina Sulaimon, "The Rome Statute's Dilemma: Reconciling The Doctrine Of Official Capacity And State Sovereignty In Articles 27 And 98," *SSRN (Social Science Research Network)*, April 1, 2024, p.3, <https://doi.org/10.2139/ssrn.5324571>.

¹⁵ Andreas Chorakis, "The ICC's Arrest Warrant Against Putin: A Grenade Against Peace in Ukraine?," *Harvard International Law Journal*, November 14, 2023, <https://journals.law.harvard.edu/ilj/2023/11/the-iccs-arrest-warrant-against-putin-a-grenade-against-peace-in-ukraine/>.

¹⁶ Ebere and Sulaimon, "The Rome Statute's Dilemma." p.4

¹⁷ Ebere and Sulaimon. p.4

¹⁸ "Ukraine | International Criminal Court," accessed October 16, 2025, <https://www.icc-pi.int/situations/ukraine>.

¹⁹ "Ukraine | International Criminal Court."

One of the longest and most comprehensive articles of the Rome Statute is Article 8 regarding war crimes, which includes all individuals without higher orders in case of committing war crimes, especially in armed conflicts.²⁰ The prosecution of the authorities of the countries for crimes such as crimes against civilians and children can be prosecuted according to the provisions of this article, which shows the importance of applying this article in response to contemporary war crimes, such as arrest warrants for Mr. Vladimir Vladimirovich Putin, President of the Russian Federation, and Ms. Maria Alekseyevna Lvova-Belova, Commissioner for Children's Rights in the Office of the President of the Russian Federation by ICC.²¹ On 22 February 2023, several requests for an arrest warrant were submitted to Pre-Trial Chamber II by the ICC's prosecutor regarding Ukraine situation.

Afterward, on 17 March 2023, this Chamber issued two arrest warrants for Mr. Vladimir Vladimirovich Putin, President of the Russian Federation, and Ms. Maria Alekseyevna Lvova-Belova, Commissioner for Children's Rights in the Office of the President of the Russian Federation in the charge of committing a war crime that violates Articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute, which includes the illegal deportation and illegal transfer of children from the occupied territories of Ukraine by Russia.²² Chamber was convinced that there are sufficient grounds for the criminal responsibility of President Putin according to Article 25 (3) (a) of the Rome Statute, that she directly or indirectly, and also because of the lack of proper supervision of the military and civilian forces under his command, contributed to the commission of these crimes. The ICC made the arrest order public because of the prevention of further crimes and the fact that the illegal deportation and transfer of Ukrainian children is a serious violation of international humanitarian law.²³

Legal and Practical Challenges

Jurisdictional limits

The jurisdictional limits of ICC is one of the fundamental structural weaknesses of this institution because the jurisdiction of ICC is based on the consent of states, and only the states that are members of the Rome Statute can be under the jurisdiction of ICC.²⁴ As a result, ICC cannot handle the international crimes that are committed by the citizens of non-state parties, including Russia, the United States, China, India, Israel, and the citizens

²⁰ William A Schabas, *AN INTRODUCTION TO THE INTERNATIONAL CRIMINAL COURT*, SECOND EDITION (Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo: Cambridge University Press, 2004), p. 51- 59 www.cambridge.org.

²¹ Schabas. p.52-59

²² ICC, "Situation in Ukraine: ICC Judges Issue Arrest Warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova | International Criminal Court," March 17, 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and-maria-alekseyevna-lvova-belova>.

²³ Alain-Guy Sipowo, "The ICC Arrest Warrant Against President Vladimir Putin and the Interests of Victims," CJVAC – Clinique juridique pour les victimes d'actes criminels, May 22, 2023, <https://www.balkan-criminology.eu/wp-content/uploads/2023/06/Arrest-warrant-against-Vladimir-Putin.pdf>.

²⁴ Daniel Shields-Huemer, "From the Hague to National Courts: Can Domestic Universal Jurisdiction Deliver Where the ICC Cannot? | Yale Journal of International Law," July 2025, <https://yjil.yale.edu/posts/2025-07-09-from-the-hague-to-national-courts-can-domestic-universal-jurisdiction-deliver>.

of approximately seventy non-member countries will be immune from the jurisdiction of the ICC, unless the crimes occurred within the territory of members of the Rome Statute.²⁵

In the same way, according to Article 12(2) of the Rome Statute, the ICC can use its personal jurisdiction to deal with the case of citizens of the member countries and prosecute them, regardless of where the crime occurred. This principle is called the active nationality principle. Therefore, this principle can be seen as a complement to the territorial jurisdiction of the ICC, which helps to prosecute governments that want to avoid accountability for crimes that happened outside their territory. The other problem is that this jurisdiction is also limited to the nationals of the member countries and cannot be effective in the case of non-member countries, unless the crime is committed in the territory of one of the member countries.²⁶ The accountability gap is the result of this structural weakness, the gap that allows the powerful countries to remain immune from international oversight and prosecution.²⁷

This limitation is clear in the Ukraine case, where Russia is not a member of the Rome Statute and does not have any legal commitment regarding cooperation with the ICC. Therefore, there are serious challenges regarding the implementation of an arrest warrant and evidence collection. In addition to this, the jurisdiction ICC is also affected negatively by the political realities. To protect their interests, countries usually undermine ICC decisions by using their political and diplomatic power. For example, after the issuance of Putin's arrest warrant by the ICC in 2023, Russia put the senior members of the ICC on the wanted list. This behavior shows the lack of independence of the ICC and weakness in justice against the logic of political powers, a phenomenon that seriously questions the legitimacy and efficiency of the ICC at the global level.²⁸

Head of state immunity

Heads of State enjoy personal immunity (*ratione personae*) while exercising their functions, and other officials enjoy subject matter immunity (*ratione materiae*) for acts performed in the course of their official duties. These immunities are recognized in customary international law to ensure that officials are protected from interference in the exercise of their functions.²⁹ The ICC is facing many challenges, including the most complex and controversial one is the conflict between the customary rules of international law that guarantee the immunity of heads of state and Article 27 of the Rome Statute, “ Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.”³⁰ which rejects the immunity of heads of state. “ Acting as a Head of

²⁵ Shields-Huemer.

²⁶ Leila Nadya Sadat, “The Conferred Jurisdiction of the International Criminal Court,” *Notre Dame Law Review* 99, no. 2 (December 2023): p. 578, : <https://scholarship.law.nd.edu/ndlr/vol99/iss2/3>.

²⁷ Shields-Huemer, “From the Hague to National Courts.”

²⁸ Shields-Huemer.

²⁹ Ilias Bantekas and Susan Nash, *International Criminal Law*, 2. ed (London: Cavendish, 2003).

³⁰ Rome Statute of the International Criminal Court (2002), <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.

State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC.”³¹

In this context, the Appeals Chamber of the ICC stated that in customary international law, no evidence can be found for the immunity of heads of state before international courts, while Article 27 (2) of the Rome Statute is in fact an expression of the same customary law that the official position will not prevent criminal liability.³² This ICC decision was rejected by countries like Russia and China, which believe in guaranteeing the immunity of the heads of state by customary international law. Critics believe that the ICC has not distinguished between its vertical relationship with the governments and the horizontal relationship between the governments themselves.³³

According to that, Article 27 regulates the relations between the ICC and the member states, but they are not in the sense of removing responsibility from non-member states.³⁴ Therefore, in Article 98, it is emphasized that the government is obliged to respect its international obligations with the immunity of other government officials, unless the government has waived its immunity.³⁵ The principle of the immunity of the head of state is in the sovereignty of the state itself, which is applied differently depending on whether the court is international or national.³⁶ The ICC issued the arrest and surrender of Putin, who is one of the officials of the non-member countries, but in practice, it has faced the same problem due to the lack of independent executive power to implement its jurisdiction, so it does not support the cooperation of the countries. This dependence has caused the execution of arrest warrants against the heads of non-member states, such as Russia, to face a serious challenge in practice.³⁷

Enforcement Challenges

Crimes committed by states, such as murder, torture, and deprivation of rights, have historically gone unpunished due to weak laws and poor enforcement. In cases where states do take action to prosecute, the perpetrators remain virtually unpunished, and real justice is ignored. The ICC is justified by serious challenges to the administration of justice, as the failure to administer justice and the abuse of restrictive and selective systems undermine the jurisdiction and legitimacy of the ICC.³⁸ For the time being, due to ICC's

³¹ ICC, *Understanding the International Criminal Court* (The Hague, The Netherlands: the International Criminal Court, n.d.), p. 14 <https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>.

³² Bregje Bongers, “The Confusing Scope of Head of State Immunity before the ICC: An Analysis of State Responses to the Jordan Appeals Decision” (Tilburg Law School, 2021). p. 9

³³ Bongers. p.9

³⁴ Bruce Broomhall, *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law* (Oxford University Press, 2004), p.136 <https://doi.org/10.1093/acprof:oso/9780199274246.001.0001>.

³⁵ Wintana Kidane Gebremeskel, “Sitting Head of State Immunity for Crimes under International Law: Conflicting Obligations of ICC Member States?” (LL.M. in Transnational Criminal Justice and Crime Prevention – International and African Perspective, University of the Western Cape, Faculty of Law, 2016).

³⁶ Gebremeskel.

³⁷ Yunqing Liu, “Revisiting the Customary International Law Avenue: Immunity of State Officials of Non-Party States in the Enforcement Proceedings of the International Criminal Court,” *Chinese Journal of International Law* 23, no. 1 (April 2024): 123–49, <https://doi.org/10.1093/chinesejil/jmae011>.

³⁸ M Cherif Bassiouni, *Crimes Against Humanity: Historical Evolution and Contemporary Application* (Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo, Delhi, Tokyo, Mexico City: Cambridge University Press, 2011). p. 81-83

weak enforcement power, lack of police force, and independent enforcement institutions relying on the cooperation of member states to carry out its mandates. Based on the theory of Legitimacy in International Law, states follow institutions that do not even have enforcement power only when they consider those institutions legitimate.³⁹ If an institution or law is legitimate, the state will follow it without being pressured or forced.

Therefore, the ICC didn't attract the cooperation of states because of a lack of legitimacy, not because of legal weakness.⁴⁰ In order for the ICC to achieve its goals, it needs to effectively implement its rulings. Without practical results, the ICC's goals will be severely undermined, and the ICC's legitimacy and claim to competence as an international institution will be questioned. The ICC's authority and influence depend on its legitimacy, and if its legitimacy is reduced, its power will also be reduced.⁴¹ Therefore, the ICC, as a legitimate legal authority at the international level, must be respected by governments. Otherwise, it will not only weaken its effective functioning but will also easily provide a basis for resistance from opponents.⁴²

States-members are expected to cooperate with the ICC in its investigation and prosecutions. The Al-Bashir case and the arrest warrant for President Putin reflect the ICC's main weakness and demonstrate the unwillingness of member states to cooperate with the ICC. However, the Rome Statute does not specify consequences or accountability mechanisms for countries that refuse to cooperate with the ICC. In addition, the unclear nature of immunity or exemption from cooperation for member states has caused further confusion.⁴³ In order to close this gap, reforms are needed, such as creating appropriate incentives and sanctions by the Assembly of Member States (AMS) and the United Nations Security Council (UNSC). These reforms give the ICC the authority to investigate and prosecute serious international crimes. A review of procedures and urgent action in this area is essential to ensure the ICC's enforcement power.⁴⁴

Political implications

The ICC faces numerous challenges in achieving its goals, which include eliminating total impunity for criminals. Among the political resistance of countries to the jurisdiction of the ICC is that the ICC has experienced difficult relations with the powerful countries of

³⁹ Ian Hurd, "Legitimacy and Authority in International Politics," *International Organization* 53, no. 2 (1999): p. 400–408, <https://doi.org/10.1162/002081899550913>."

⁴⁰ Thomas M. Franck, ed., *The Power of Legitimacy among Nations* (New York: Oxford University Press, 1990). p.20

⁴¹ Adam White, "A Force to Be Reckoned with? – The International Criminal Court and the Problem of Enforcement" (University of Otago, Dunedin, New Zealand, 2019), p. 12-13 https://www.otago.ac.nz/__data/assets/pdf_file/0020/331454/a-force-to-be-reckoned-with-the-international-criminal-court-and-the-problem-of-enforcement-734259.pdf.

⁴² White. p.12-13

⁴³ Gwen P Barnes, "The International Criminal Court's Ineffective Enforcement Mechanisms: The Indictment of President Omar Al Bashir," *Fordham International Law Journal* 34, no. 6 (2011): p. 1597, <https://ir.lawnet.fordham.edu/ilj/vol34/iss6/4/>.

⁴⁴ Francisco Tschen, "NECESSARY REFORMS TO ICC PROCEDURE: LESSONS FROM THE OMAR AL-BASHIR CASE," *Florida International University (FIU) - College of Law*, 2024, p.31- 32 <https://doi.org/10.2139/ssrn.4950304>.

the world.⁴⁵ Such as: withdrawal of signatures, refusal to join the Rome Statute, or open opposition to the ICC by countries such as the United States, China, and Russia⁴⁶. According to Hans Morgenthau's theory of political realism, international relations are based on the power and national interests of countries, and moral or legal rules play no role in them. Therefore, the disagreement between great powers and the jurisdiction of the court stems from a realist logic in which the desire for power prevails over public justice.⁴⁷

The United States passed a law authorizing the use of force to release American citizens held in custody, called the American Service-Members' Protection Act (known as the Hague Invasion Act). China and Russia, claiming to respect the sovereignty of states and not to interfere in their internal affairs, used their veto power in the Security Council to limit the referral of cases to the ICC. These examples show that political power still influences the scope of the court's activities and its effectiveness.⁴⁸ Putin's arrest warrant is one of the most striking examples of the ICC's weakness in the face of major powers, as Russia has explicitly stated that it does not recognize the arrest warrant due to its non-signatory status to the Rome Statute. "We are not parties to the statute - we do not recognize this," Peskov said. Officials called the arrest warrant for President Vladimir Putin and Russian Children's Commissioner Maria Lvova-Belova on charges of war crimes related to the disappearance of Ukrainian children unacceptable and ridiculous, and denied that Russia had committed any crime.

Moreover, officials added that such restraining verdicts are ineffective in the real world, citing the failure of ICCs to prosecute US forces in Afghanistan and Iraq as examples to bolster their claim.⁴⁹ As a result, these facts show that despite the legal and moral legitimacy, political powers determine the scope and effectiveness of the ICC. In general, the ICC, under the influence of the realist logic of international relations, faces challenges that prevent it from properly exercising its jurisdiction. Namely, cultural, social and political obstacles that cause the national interests and power of states to be prioritized over the realization of global justice.⁵⁰

Conclusion

The review of the arrest warrant for President Putin demonstrates the ICC's jurisdiction to investigate the situation in Ukraine. The ICC can legally investigate the situation in Ukraine based on Article 12(3) of the Rome Statute and Ukraine's acceptance

⁴⁵ Milena Sterio, "The International Criminal Court: Current Challenges and Prospect of Future Success," *Case Western Reserve Journal of International Law* 52, no. 1 (2020): P. 468, <https://scholarlycommons.law.case.edu/jil/vol52/iss1/21>.

⁴⁶ Sterio. p. 468

⁴⁷ Padelford, "Review of Politics among Nations: The StruggleNorman J Padelford, "Review of Politics among Nations: The Struggle for Power and Peace, by Hans J. Morgenthau," *Political Science Quarterly* 64, no. 2 (June 1949): 290–92, <https://www.jstor.org/stable/2144235>.

⁴⁸ Sterio, "The International Criminal Court: Current Challenges and Prospect of Future Success." P.474

⁴⁹ Reuters, "Russia Does Not Recognise ICC Arrest Warrants, Kremlin Says | Reuters," 2024, <https://www.reuters.com/world/russia-does-not-recognise-icc-arrest-warrants-kremlin-says-2024-03-06/>.

⁵⁰ Steven C. Roach, *Governance, Order, and the International Criminal Court: Between Realpolitik and a Cosmopolitan Court*, First published 2009 P.201 (Oxford: Oxford university press, 2009).

of the ICC's jurisdiction, but in practice, the implementation of this arrest warrant faces numerous challenges, such as the conflict between customary international law and Article 27 of the Rome Statute on the immunity of heads of state, the ICC's dependence on member states to enforce its judgments due to the lack of an independent enforcement police mechanism, and the political influence of countries such as Russia, China, and the United States. The credibility of the ICC has been reduced due to its waning influence. As a result, despite the legal legitimacy of Putin's arrest warrant for the investigation of international justice, it reveals the ICC's weaknesses rather than its authority against the great powers. The main problem with the ICC's jurisdiction is the conflict between legal legitimacy and political realities. The ICC is legally legitimate, but in practice, the influence of the power and sovereignty of states limits its ability to achieve its goals. Reforms in the structure and enforcement mechanism of the ICC can strengthen its position and effectiveness in delivering justice. To ensure the cooperation of states, the establishment of an independent executive force or a binding mechanism for the execution of arrest warrants is necessary. With increasing political and legal support, member organizations and countries can reduce the influence of great powers and ensure the real implementation of international justice, because without that, the ICC will remain just an institution without power and legitimacy.

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