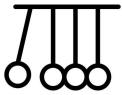


Turkey's Non-Ratification of the Rome Statute: Implications for Aggression and War Crimes

LAW



Introduction

One of the key mechanisms established within the international legal system to prevent serious human rights violations and war crimes is the International Criminal Court (ICC). Established by the Rome Statute adopted in Rome in 1998, the Court has jurisdiction over the most serious international crimes, including crimes against humanity, genocide, war crimes, and the crime of aggression. Entering into force in 2002, this statute plays a significant role in maintaining international peace and security. However, some states, despite signing the Rome Statute, have chosen not to ratify it and thus remain outside the Court's jurisdiction. Turkey is among these states and has justified its decision not to become a party to the Rome Statute on various legal, political, and diplomatic grounds. This situation presents both advantages and risks for Turkey's international military operations and cross-border interventions.

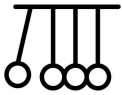
The Rome Statute and the International Criminal Court (ICC)

The International Criminal Court (ICC) is an international court established by the Rome Statute, which was signed in 1998 and entered into force in 2002, with jurisdiction over crimes against humanity, including aggression, war crimes, and genocide. The Court is located in The Hague, Netherlands, and, to date, 124 countries have become parties to it.

The ICC focuses on humanitarian law crimes and, since its establishment at the end of the 20th century, has made a significant contribution to the dominance of international humanitarian law in the 21st century. The preamble of the Rome Statute, which emphasizes that crimes under the Court's jurisdiction are among the most serious crimes committed worldwide and threaten peace and security on Earth, has contributed to the Court's authority. Additionally, the principle of *non bis in idem*, meaning that "no one shall be tried twice for the same crime," is a fundamental principle applied by the Court.

To establish the International Criminal Court, the United Nations (UN) first held a conference in Rome in 1998. On July 17, 1998, the Rome Statute, which established the International Criminal Court, was adopted with 120 votes in favor, 7 against, and 21 abstentions. The Rome Statute defines the crimes, outlines how the Court will proceed, and specifies what states must do to cooperate with the Court. According to the Statute, the ICC could enter into force only after being ratified by 60 countries, a threshold that was reached in April 2002. As of April 15, 2015, 139 countries had signed the Statute, and the Court's existence had been ratified by 123 states. However, signing the Rome Statute does not equate to ratifying it.

The Reasons for Turkey's Non-Ratification of the Rome Statute



Although Turkey signed the Rome Statute, it has not ratified it. At the Rome Conference, Turkey explained its decision not to become a party to the Statute by citing the insufficient clarity in the Statute regarding the definition and scope of the crime of aggression and crimes against humanity. Turkey had already assumed legal obligations under the 1949 Geneva Conventions with respect to these crimes. Another reason was that terrorism and drug-related crimes were not included within the Statute's scope. The inclusion of the drug issue on the agenda resulted from a compromise with Caribbean states. Turkey agreed to support the proposal concerning drug trafficking, which was a major concern for these states, in exchange for their support regarding terrorism-related matters. The final reason concerns the adjustments made to harmonize the Statute with national legislation. In fact, there was another underlying reason: major powers also did not ratify the Statute. Countries such as the United States, Russia, and China, like Turkey, did not accept the Statute, which significantly influenced Turkey's decision. All these factors collectively led Turkey to refuse ratification of the Statute.

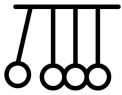
Implications in Terms of the Crime of Aggression

Turkey remains outside the direct jurisdiction of the International Criminal Court (ICC) because it is not a state party to the Rome Statute. This means that Turkey cannot be prosecuted by the ICC for the crime of aggression in the context of cross-border military interventions, operations, or involvement in international disputes. However, this does not imply that Turkey is completely free from international oversight. The international community, particularly the European Union and United Nations member states, can comment on Turkey's military operations and apply diplomatic pressure. Moreover, even though Turkey has not ratified the Statute, the United Nations Security Council (UNSC) can refer cases to the ICC if deemed necessary, indicating that Turkey still faces a potential risk of prosecution.

Another factor is Turkey's NATO membership and its collective security responsibilities. In this context, the country cannot act entirely freely with respect to the crime of aggression. For instance, NATO's principle of collective defense or operations conducted alongside allies limits Turkey's ability to act unilaterally, and these actions are monitored from an international law perspective. Additionally, international media closely follow Turkey's military operations. Therefore, even if these actions do not constitute the crime of aggression, they can still become subjects of debate within the international community and may have adverse effects on diplomatic relations.

Implications in Terms of War Crimes

Turkey's non-ratification of the Rome Statute means that the ICC cannot exercise direct jurisdiction over war crimes in the country. This indicates that war crimes committed in Turkey or in conflicts involving Turkey cannot be investigated through the ICC. However, this does not imply that Turkey is entirely exempt from international law. The United Nations Security Council (UNSC), if deemed necessary, can refer allegations against Turkey to the



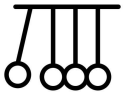
ICC, which means that Turkey is still subject to an indirect oversight mechanism despite not being a party. In other words, war crimes and the crime of aggression can be examined within the same framework.

Although Turkey's domestic law includes provisions on war crimes, these regulations are not fully aligned with international standards. For example, in areas such as the protection of civilians during armed conflict, the prohibition of torture, and the rights of prisoners, there are differences between national legislation and the Rome Statute as well as the Geneva Conventions. Particularly in cross-border operations with high civilian casualties or in long-lasting conflict zones, Turkey's actions are closely monitored and criticized by international media and human rights organizations.

Furthermore, Turkey's non-ratification of the Rome Statute also has diplomatic and political implications. Compared to other countries under the ICC's jurisdiction, Turkey—being subject to more limited international oversight—may have its operations scrutinized more critically by state parties. This situation compels Turkey to maintain a delicate balance in its international relations, both in terms of credibility and accountability. Consequently, while not being a party provides short-term flexibility for independent action, it does not allow Turkey to completely evade international scrutiny and criticism in the long term.

Conclusion

Although Turkey's non-ratification of the Rome Statute provides short-term flexibility in protecting national interests and military operations, it does not allow the country to completely avoid international scrutiny and criticism in the long term. While being outside the Court's direct jurisdiction regarding the crimes of aggression and war secures Turkey's operations, oversight by the United Nations Security Council (UNSC), international media, and human rights organizations does not exempt Turkey from international responsibility. Consequently, Turkey's position represents a complex balance between national sovereignty and international accountability.



Resources

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