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General Debate

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Ukraine: Rome Statute ratification as commitment to global justice

Your Excellencies, Ladies and Gentlemen,

I thank you for this opportunity to speak about the situation in Ukraine and the role of international justice.

While Ukraine is not a state party, it has shown some support of the international justice system, in particular by being the only non-state party to ratify the Agreement on Privileges and Immunities of the Court.

However, in July 2001, the Constitutional Court of Ukraine issued its interpretation of the complimentary principle and found the Rome Statute to be in contradiction with the Constitution of Ukraine. This ruling has been used by Ukraine's authorities as an excuse for not even making attempts to become party to the Rome Statute, which it had signed in 2000.

The ICC came up on Ukraine's political agenda again early this year on the wave of widespread violence in the streets of Kyiv and other Ukrainian cities, when the national justice system failed in ensuring its independence from the political regime and used brutal force against civilians.

Reflective of the strong public demand for effective investigation of the crimes committed during the Euromaidan protests, in April the Ukrainian Parliament issued an Article 12.3 declaration recognizing the jurisdiction of the ICC for 3 months over alleged crimes against humanity committed by the previous Ukrainian leadership.

However, Ukraine still has not progressed towards ratification and full implementation of the Rome Statute.

Although Rome Statute ratification is included among Ukraine's commitments in its Association Agreement with the EU, the issue has disappeared entirely from internal political negotiations. It has not been prioritized by any political party during the recent parliamentary elections, and no commitment to ratify has been made by the coalition of pro-democratic political parties which obtained the constitutional majority in the Parliament.

Ukraine has also not conducted effective investigations and prosecutions of the alleged crimes. In the year since the first act of brutal police violence happened in Kyiv's main square, only a few policemen have been arrested. Most evidence has been destroyed or transferred to Russian-occupied Crimea.

This failure in investigation together with the escalation of violence in the East and decreasing confidence in the independence of the judiciary has led to the de-prioritization of legal instruments and solutions.

Moreover, foreign aggression – including the annexation of the Crimea in direct violation of the Budapest Memorandum – and the unrelenting use of propaganda and hate speech by the Russian Federation, continues without any adequate response by the international community to protect the freedom, independence, and territorial integrity of the country.

This has contributed to an increasing lack of confidence in the system of international law and the protection it is supposed to provide. Sadly, this means that Rome Statute ratification continues to move further down the list of priorities – for politicians and even for some civil society actors who are losing faith in the rule of law.

This trend is very dangerous, and it could have much broader impact for attitudes towards the role of the justice system – at both the national and international levels.

It is therefore of crucial importance, that in all levels of dialogue with Ukrainian counterparts, States Parties, the Court, regional and international organizations, and civil society promote the importance and potential of international justice.

Ukraine should have a place in your agenda not for the aim of improving the statistics of having more state parties, but as a partner who needs special attention.

In that respect, we hope the International Criminal Court will open an investigation into the crimes committed during the Euromaidan protests. It would have a significant impact for developments in Ukraine and far beyond. Ukraine may be a challenge, but it also represents a big opportunity for the developing global justice system.

Thank you.