

CONSIDERATIONS ON INDIVIDUAL CRIMINAL RESPONSIBILITY FOR HUMAN RIGHTS ABUSES

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Abstract: *The emergence of the Universal Declaration of Human Rights adopted by UN General Assembly 10/12/1948 marks the "beginning of a new progressive era in the international protection of human rights and freedoms.*

Crimes in international law are committed by people and not by abstract entities. Just punishing these authors can give effect to the provisions of international law.

Key words: *human rights, responsibility, international criminal court, civil rights, punishment, protection.*

“All human beings are born free and equal in rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”¹

First should be noted that human rights issues became a major concern for most of the countries, regardless of ideological differences, cultural, economic or social, proven by their accession at the two international pacts drafted by UNO, namely: International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

There is evidence that there were concerns regarding the protection of humans from ancient times, but the concept itself of "human rights" appeared in the run up to the bourgeois revolutions in Europe and America and the history of human rights begins in Britain once the Magna Charta of Libertatum in 1215, during the reign of King John of England, which sought to restrict the king's power, reducing abuses monarch and is the first document in which a number projected to guarantee rights for citizens..

The emergence of the Universal Declaration of Human Rights adopted by UN General Assembly 10/12/1948 marks the "beginning of a new progressive era in the international protection of human rights and freedoms".

We consider it is very important to present the meaning of the term "liability" in terms of linguistics usage.

Thus, the linguistic awareness of responsibility is the personality of its debt to the company, a community of people, understanding the meaning and significance of his behaviour.

The Explanatory Dictionary of Romanian Language explains the term's responsibility as the possibility of requiring a person accountable for his actions.

In law this term has taken on another meaning, different from that in common language namely highlights the negative consequences arising for committing illegal acts by an individual or a legal person. Liability itself includes only the consequences of violations of law, which is expressed in the emergence of new bonds or other obligations arising from the report how the existing law.

Considering the need for legal liability as a constraint that arises because of violation of legislation by natural or legal person may be deemed liability is complex related rights and obligations which, by law, are born as following the committing of illegal acts, constitutes the realization of state coercion through legal penalties to ensure the stability of social relations in society and guide the spirit of respecting the rule of law.

¹ „Declarația Universală a Drepturilor Omului”

Social life could not take place under appropriate conditions without the existence of rules of conduct and rules established. These rules or conduct rules determine which subjects to be taken between the relations between them.

Failure to conduct a pre-established rules inconsistent with each other, entails social responsibility, the guilty are forced to bear the consequences of his actions.

Depending on the political, moral, legal, religious, etc, of the violated rules and liability trained will be a corollary, that a political, moral, legal, religious, etc.

Legal liability is defined as that form of social responsibility established by the state following breaches of law by a wrongful act and determines the appropriate consequences of the assumption of the guilty, including the use of coercive force to restore order to rule of law harmed. Are crucial elements of legal liability of committing illegal acts, violation of legal rules by the commission of that offense and intervention by state institutions after strictly limited procedures.

Violation of any law of rights deemed to be class in basic human rights, and criminal violation is punishable by criminal law and to each individual state, (murders, rape, bodily harm, etc.) Entail individual criminal responsibility. As the subject of criminal liability, the principle of subjectivity and individualization of punishment imposed in general, individual sole subject of such crimes possible, even if they are covered by international conventions.²

It was not easy to achieve acceptance of the idea that an international criminal judicial body, independent and impartial, could intervene to correct or to replace the exercise of criminal jurisdiction by State authorities for committing very serious criminal offenses, skilled in international law as crimes against humanity.

Rating of "crimes against humanity" is determined by gravity and scale wool, countries, damage items the victims, considering that gravity is affected by the very humanity, as a whole is jeopardized international peace and security, crime, which due their seriousness, are not subject to the exclusive exercise of criminal jurisdiction of a particular state, murder determining the international community to consider entitled to request and to exercise its own, tracking, criminalization and physical punishment of the responsible persons for committing such acts in the framework of international intergovernmental bodies with jurisdiction.

UNO General Assembly Resolution 174 of 1950 enshrined the principles on which they were organized and operated International Military Tribunals at Nuremberg and Tokyo, established after the end of the Second World War, which tried and convicted a number of personalities in the army and the governments of Germany and Japan, for crimes against peace and war crimes committed between 1939 - 1945, principles that form today, "hard core" of international criminal law, namely ":

- Individual criminal responsibility of individuals, international courts,
- Identification of material competence of such courts, the crime of aggression, war crimes and crimes against humanity,
- Exclusion of any immunity that might invoke the offenders
- Ordinal superior liability does not exclude, but may be a mitigating factor,
- Criminalizing complicity, location within any of the acts complained of states engaged in war.

““Crimes in international law are committed by people and not by abstract entities. Just punishing these authors can give effect to the provisions of international law.”³

The famous statement of the International Tribunal of Nuremberg shows the will of the Allies to move beyond the state responsibility to reach the individuals acting on their behalf. Resolution of Nurnberg introduced a double innovation, namely:

1. in terms of international responsibility, the formation of a split individual body appear as classical rules of state responsibility, because in principle the infringing activities of state agent acting as such remain attributable to the State on whose behalf he held office. However, that these

² Bogdan Aurescu, „Sistemul jurisdicțiilor internaționale”, Ed All Beck, București, 2005, p. 123-138

³ Pierre-Marie Dupuy, „Droit international public, Ed.a5-a, Dalloz, 2000, p. 483-485.

individuals-bodies are declared not exempt the responsible person concerned of their responsibility in international law,

2. From the point of view of international criminal law, the London Agreement of August 8, 1945 introduced another major innovation. Until then, international criminal law relate only to crimes committed by individuals privately and not as agents of the state crime committed.

It is necessary also to refer and ad hoc international criminal tribunals created after 1990. They are organized international criminal court, usually by the UNO Security Council resolutions, as a result of internal or international conflict, with very violent character. These courts are competent to judge only individuals for serious violations of human rights which constitute war crimes, crimes against peace, and crimes against humanity.

We mention here:

1. International Criminal Tribunal for former Yugoslavia (ICTY), based in The Hague, which was created by resolution adopted by the UN Security Council no. 827 of May 25, 1992, while having limited jurisdiction, namely, acts committed since 1991, in space, acts committed in the territory of former Yugoslavia, the material competence of referring to serious violations of humanitarian international law.

2. International Criminal Tribunal for Rwanda (TPIR), based in Arusha (Tanzania). TPIR was established by UN Security Council resolution no. 955 of November 8, 1994, for "prosecuting persons presumed responsible for acts of genocide or other serious violations of international law committed in the territory of Rwanda humanitarian and Rwandese citizens deemed responsible for committing such acts in the territory of neighbouring states, between January 1 and 31 December 1994 "Jurisdiction and the time indicated by the title of the resolution and physical power - genocide and other serious violations of international humanitarian law.

International Criminal Court (ICC)

Even if the provision of international criminal court, together with developing a code of crimes against peace and humanity were badly needed, it took the Cold War experience, the dramatic ethnic conflicts that took place in Somalia, Yugoslavia or Rwanda, to adopt a multilateral treaty of the International Criminal Court statute permanent. Treaty establishing the ICC "Rome Statute" was adopted on July 1, 1998 in Rome, in an Intergovernmental Conference, by 120 States, with 7 votes against and 20 abstentions and entered into force on July 1, 2002.

Material competence of the Court indicated in the preamble of the treaty constituting the "most serious crimes affecting the international community as a whole" and the Articles Staff are called genocide, crimes against humanity, war crimes and aggression, and the Court has personal jurisdiction the only individuals who have committed directly or documentary material within the jurisdiction of the Court or who have ordered or have facilitated the commission of such acts, attempts, being, and it criminal.

So we end with a very significant quote from Vaclav Havel.

"Human rights and universal civil rights will be respected with only one condition. We have to become aware that man is responsible for the whole world".

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