міжнародного права як важливого інструменту збереження миру та гармонійних відносин на нашій планеті.

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Does the international public law (still) matters nowadays?

I. INTRODUCTION

Situating the Public International Law (further referred to as “PIL”) in its historical, political and cultural context, it refers to the body of legal rules and principles determining the international rights and obligations of subjects of this field of law [7; 25]. Also known as the Law of Nations, it constitutes a set of norms aimed at regulating the interaction between the subjects of international law that participate in international relations [4; 6; 7]. Gradually, however, also non-governmental entities and individuals have become more and more considered by PIL [12].

Furthermore, the scope of PIL has grown over the decades, including additional topics, e.g., human rights, international environmental law, international criminal law, and international economic law and trade law [18].

Having said this, there are undoubtedly two crucial pillars of PIL, namely a catalogue of its subjects on the one hand, and the values and their implementation on the other. Considering the global geopolitical situation in the world nowadays, one might argue that these two fundamentals of PIL constitute an entire spectrum of its evolution and its key challenges. Lastly, the establishment of the limits on war

and the use of force, as well as the interplay between interdependence and cooperation, are depicted as critical challenges in the evolution of international law [7; 18].

II. INDIVIDUAL AS SUBJECT OF PUBLIC INTERNATIONAL LAW

According to the traditional doctrine of international law, only some of the several actors in the international scene, such as states and international organizations, are subjects of international law, thus, entities capable of possessing international rights and obligations and possessing international legal personality [5; 10]. The traditional doctrine, moreover, recognizes also atypical subjects of international law, which includes the Holy See, the Sovereign Order of Malta, and the International Committee of the Red Cross. Other entities such as non-self-governing peoples, insurgents, and movements of national liberation have also been gradually considered by part of the doctrine as subjects of international law. Furthermore, the status of indigenous peoples and multinational enterprises as subjects of international law is also under discussion.

It is commonly known that sovereign (nation)states were historically the main and only subject of PIL. *De facto* only after World War II the existence, followed by the recognition within the PIL as a its subject, the international organisations came into play, being - within the meaning of the PIL - more than only the (simplified) sum of their member states.

While the traditional doctrine of international law did not regard individuals as subjects of international law, a more contemporary approach tends to recognise that the individual is indeed a subject of international law and [12; 14], therefore, the subject (“owner”) of both rights and obligations in the international arena [1; 20]. This holds true particularly in areas such as international human rights law, international criminal law, and international humanitarian law. However, it should be noted in this regard, that, subject to certain Resolutions by the United Nations Security Council, there is no generally accepted coercive authority that can bind sovereign States to a body of international law [14].

Considered as subject of PIL, individuals are naturally subjects of rights and obligations of that area of law. When it comes to rights, PIL legal environment proves helpfully used, albeit experiencing certain difficulties in enforcement [2;8]. However, when it comes to obligations under the same set of PIL legal norms, the matter becomes more complex, when IPL is being more and more often (mis)used as a political instrument. The latter holds particularly true when it comes to enforcement of judicial decisions, being questioned by some actors of international relations falling evidently within the scope of PIL.

III. RECENT JURISPRUDENCE

Considering the foregoing, the recent decision(s) of the International Criminal Court (further referred to as ICC or the Court), particularly lacking in their enforcement, doubtlessly calls for further analyses and reserves further attention at the international level.

As as matter at stake, pursuant to the applications submitted by the Prosecution on 22 February 2023, Pre-Trial Chamber II of the ICC on 7 March 2022 issued warrants of arrest for two individuals in the context of the situation in Ukraine, namely for the President V.V.Putin and for M.A. Lvova-Belova [3; 2]. Accordingly,

President Putin is under an arrest warrant by the ICC being specifically allegedly responsible for the war crime of unlawful deportation of children and unlawful transfer of population children from occupied areas of Ukraine to the Russian Federation, committed at least from 24 February 2022. The ICC put forward that there were reasonable grounds to assume that President Putin bears an individual criminal responsibility for these aforementioned crimes, particularly for having committed these crimes directly, jointly with and/or through others and for his failure to properly exercise control over civilian and military subordinates [3]. Despite the arrest warrant issued against him, however, President Putin went to Mongolia on 3 September 2024, being welcomed by Mongolia's leader (Ukhnaagiin Khurelsukh) for an official ceremony commemorating a Soviet-Mongolian military victory during World War II [2]. Notably, it was the first time that President Putin visited an ICC member since the Court made his arrest warrant public in March 2023.

Having said this, it should be underlined that under PIL every state being a Party to the Rome Statute of the ICC, is obliged to detain any person on its territory who is subject to an ICC arrest warrant. In other words, the ICC member states are required to arrest President Putin and transfer him to the Court in The Hague if he would enter their territory [3]. Consequently, Mongolia, being an ICC member - a State Party to the Rome Statute of that Court (since 2022) - is also obliged to comply with the warrants issued by that Court. Therefore, Mongolia had failed to comply with its obligations under the Statute to execute the arrest warrant against President Putin. Whereas both the European Union and Ukraine have reminded Mongolia of this responsibility, also both Russian officials, denying the allegations, and Mongolian authorities have stated that they have *"no concerns"* about the visit of President Putin [2].

In such a context one shall doubtlessly consider the political, but also the economic environment. Mongolia, as a former Soviet satellite state, has maintained rather friendly relations with the Russian Federation since the collapse of the Soviet Union in 1991. Moreover, it heavily relies on Russia for fuel, oil and electricity. Consequently, Mongolia has not condemned Russia's invasion of Ukraine and declined to vote on the conflict at the United Nations.

Considering the foregoing, Mongolia also failed its own commitment as an ICC member to "*be part of the global community supporting victims' access to justice through the court and its broader system of accountability.*" [2]. Admittedly, the principle that no one is above the law is a cornerstone of that system [2]. The ICC, similarly as other international courts, is actually powerless to force member states to comply with its decisions, even when they fail to execute an arrest warrant issued by the Court [15].

The abovementioned statement holds regrettably true also in another ICC decision, namely that of 21 November 2024, issuing the warrants of arrest for Mr Benjamin Netanyahu, for crimes against humanity and war crimes committed from at least 8 October 2023 [19; 21]. Again, all State parties to the ICC should execute the arrest warrants notwithstanding any immunity available under international law. Admittedly, a cornerstone principle of the ICC's founding Rome Statute is that all individuals subject to ICC arrest warrants must be arrested and surrendered to the Court without recourse to immunity when they are within the jurisdiction of ICC member states, including on their territory. This principle, however, appears seemingly forgotten, as some leaders from ICC member states, such as France,

Germany, Italy, Hungary and Poland have stated or implied that they would not arrest Benjamin Netanyahu if he travelled to their respective countries. More than that, the United States has also enacted sanctions against the ICC Prosecutor, Karim Khan. Moreover, most recently Hungary, being a founding member of the ICC, announced withdrawing from the ICC. Notably, the ICC, as any other international jurisdiction, has no mandate to enforce its warrants and relies on its members in this matter [13; 21].

IV. CONCLUSIONS

Considering the foregoing analyses, one matter appears desperately calling for more attention of the law makers at the international scene. It is not a revolutionary finding that a significant weakness of the PIL legal environment lies in the lack of (an effective) enforcement mechanism, what has been proven counterproductive on various occasions over the past decades, when it comes to application of PIL rules. As demonstrated above, on the examples of ICC decisions, including individuals within the scope of PIL normative environment, i.e. attributing rights and obligations to individuals, does not necessarily mean that these obligations will be willingly followed on the one hand, particularly when it comes to restrictions, and the rights will be indeed granted on the other hand. On the contrary, the reality rather proves that the good will, on which the implementation of PIL is actually based, would not lead to an effective application of that normative set of rules in case of both legislative instruments and judicial decisions. The recent developments throughout the world, i.e. political and/or economic crises, natural catastrophes, and especially wars faced by the international community should without any doubts constitute a wake-up-call for rethinking enforcement of PIL and reinforce it accordingly. It is a long and stony road, nonetheless with persistence, principled support for justice, and - crucially - political will, certain progress in that regard seems to be possible.

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UDC 340

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Wojna a środowisko naturalne: studium przypadku Ukrainy – wybrane zagadnienia

W opracowaniu tym Autorka chciałaby przedstawić wybrane zagadnienia związane z ochroną środowiska naturalnego w kontekście konfliktów zbrojnych.

Wyjść należy od tego, że konflikty zbrojne nie tylko wpływają na ludność cywilną i infrastrukturę, ale również powodują szkody w ekosystemach [1]. Środowiskowe konsekwencje wojny mają przede wszystkim znaczenie długoterminowe. Przekładają się także na jakość życia ludzi na zniszczonych terenach w czasie postwojennym. Wśród głównych kategorii następstw działań wojennych na środowisko wyróżnić można na przykład:

1. zanieczyszczenie gleby (m.in. skażenie gleby toksycznymi substancjami, w tym metalami ciężkimi i ropą naftową),
2. zanieczyszczenie wód (m.in. skażenie rzek i jezior, degradacja ekosystemów wodnych, ale także zniszczenie zapór i zbiorników),
3. toksyczne emisje i zanieczyszczenie powietrza (m.in. pożary w magazynach chemicznych i innych obiektach przemysłowych emitują ogromne ilości toksycznych gazów, w tym dioksyn, związków siarki oraz metali ciężkich),
4. zniszczenie przyrody i bioróżnorodności (m. in. uszkodzenie siedlisk przyrodniczych, negatywny wpływ na dzikie zwierzęta).

W odpowiedzi na te wyzwania, prawo międzynarodowe formułuje zasady ochrony środowiska, które powinny być przestrzegane podczas działań wojennych [2]. Wśród konwencji międzynarodowych dotyczących ochrony środowiska mających zastosowanie również w czasie konfliktów zbrojnych należą np.: