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Analysis and Evaluation of Options for Ukraine's Ratification of the Rome Statute of the International Criminal Court in the Context of the Active Phase of the Ongoing russian-Ukrainian Conflict: Security Challenges

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Abstract. The article's relevance is stipulated by the need to clearly define Ukraine's strategy in the field of international justice against the background of the ongoing war with russia. The

ratification of the Rome Statute of the International Criminal Court is an important political and legal step that may open up opportunities for bringing to justice those responsible for war crimes, in particular, the russian military and their commanders who are carrying out aggression on the territory of Ukraine. However, this process also poses a number of challenges for Ukraine's security environment, as it could lead to an escalation of the conflict, intensify diplomatic pressure from russia and affect the domestic political situation, particularly regarding the legal status of the Ukrainian military. In addition, it is important to consider other states' experiences in ratifying the Rome Statute, their successes and difficulties, as well as to assess the possible political, legal and security consequences for Ukraine in the event of different options for implementing this process. Therefore, the article's primary purpose is to study the issue of ratification in the context of the active phase of the ongoing war, as this will help find a balanced solution that best meets the interests of Ukraine's national security and the international community. The main research methods used are analysis and synthesis, expert survey and comparison, methods of deduction and formalisation. The main results of the article are that it analyses foreign and domestic sources on the ratification of the Rome Statute of the International Criminal Court in the system of state bodies, as well as analyses and evaluates the main methods of researching the options for Ukraine's ratification of the Rome Statute; identifies the purpose, main tasks, advantages and challenges of ratification of the Rome Statute in Ukraine in times of war; identifies the main threats to the Armed Forces of Ukraine and Ukraine as a whole in case of ratification of the Rome Statute; forms the basis for the development of the the materials of the article may be helpful for representatives of the leadership of the Armed Forces of Ukraine and the Ministry of Defence of Ukraine, specialists in the field of public administration, as well as for academics and researchers.

Keywords: security, security environment, threats and challenges, the Armed Forces of Ukraine, international humanitarian law, armed conflict, national security, the Rome Statute of the International Criminal Court, methods of studying the ratification of the Rome Statute, assessing the impact of positive and negative factors.

"Almost everything is possible in this world, but not simultaneously. Striving for one, you have to give up the other."
Dmytro Leontyev

Introduction

The study of possible options for Ukraine's ratification of the Rome Statute of the International Criminal Court (ICC) in the active phase of the ongoing russian-Ukrainian conflict is extremely relevant. Ratification of the statute can provide mechanisms of international justice, which is critical for bringing war criminals to justice and protecting human rights in Ukraine. Many countries, including the European Union (EU) and the United States, actively support Ukraine in its pursuit of international justice, emphasising the importance of investigating international crimes committed by russia [1-2].

The study of this topic is necessary as it will allow Ukraine to gain international experience, avoid possible legal pitfalls and strengthen its positioning in the global arena. In addition, the study of ratification options can help to formulate a strategy for cooperation with international organisations and partner countries, which is important for ensuring security and stability in the regions. Thus, this topic is currently relevant and requires additional attention from government officials and academics.

On the one hand, the ratification of the Rome Statute may have positive consequences, such as strengthening the international legal framework for the investigation and prosecution of war crimes, which will ensure greater transparency in the administration of justice, increase public confidence in state institutions, and may help restore justice. On the other hand, there are foreign risks and negative

consequences that require attention. For example, the possibility of prosecuting Ukrainian military personnel if accused of war crimes could cause internal tensions. In addition, ratification of the statute without proper preparation may lead to ambiguity in the interpretation of the statute's provisions in wartime [1-9].

Therefore, the study of these aspects is critical for the development of a reasonable Ukraine policy in the context of international justice, which allows a balanced approach to ratification and assessment of all research opportunities for the country in the current circumstances [1-18].

Materials and Methods

The analysis of foreign and domestic sources [1-18] on the ratification of the Rome Statute by Ukraine and other states (Table 1) demonstrates that researchers have a deep understanding of the issues related to the ratification of the Rome Statute and its impact on national laws and international relations. The studies cover both positive aspects of strengthening international justice and ensuring fairness and negative aspects, namely challenges, such as threats to sovereignty and the likelihood of legal conflicts for national courts.

The results of the analysis show that (Table 1) [1-18]:

authors such as Hall (2023) and Schabas (2017) emphasise the importance of the ICC in combating war crimes and human rights violations. Ukraine can strengthen its position in the international arena by becoming a full member of this mechanism. However, Maloney (2021) and Albrecht (2020) show that countries that have ratified the Rome Statute may face challenges in the area of sovereignty and interaction with other states;

studies by Damaška (2020) and O'Keefe (2021) highlight the difficulties in integrating the provisions of the Rome Statute into national judicial systems, which may be particularly relevant for Ukraine, where the legal system reform is still in progress. It is important to understand how the provisions of the statute relate to national legislation and what changes to legislation are necessary in connection with its ratification;

comparative studies, such as those by Chappell (2023) and Heller (2021), show that ratification of the Rome Statute is not always without problems. The experience of other countries, particularly African states (Meloni, 2021), points to the possibility of political and legal risks. Studying global experience will help Ukraine avoid such difficulties;

Table 1. Analysis of foreign and domestic sources on the ratification of the Rome Statute of the International Criminal Court in the system of state authorities

Author, source and year of publication	Main content
Kravchenko, V. M. (2023). Ratification of the Rome Statute: legal aspects for Ukraine during the war.	Review of the legal consequences of the ratification of the Rome Statute for Ukraine in time of war, including international responsibility and cooperation with the ICC.
Petrova, A. V. (2021). International courts and their role in the protection of human rights: the experience of Ukraine.	Study on the role of international courts in the protection of human rights in Ukraine and the impact of the Rome Statute in this area.
Brown, A. (2022). The impact of the Rome Statute on national sovereignty: a comparative analysis	Analysis of the impact of the Rome Statute on the national sovereignty of the states that have ratified it, using a comparative approach.
Tkachenko, I. S. (2022). War crimes in the context of the Rome Statute: opportunities and challenges for Ukraine	Study of war crimes in Ukraine and their possible prosecution under the Rome Statute.

Continuation of the table 1. Analysis of foreign and domestic sources on the ratification of the Rome Statute of the International Criminal Court in the system of state authorities

Hall, J. (2023). The future of international criminal law: Ukraine's way forward	Prediction on the future of international criminal law that focuses on Ukraine's path to ratification and implementation of the Rome Statute.
Shevchenko, O. O. (2021). Military and Legal Aspects of the Ratification of the Rome Statute by Ukraine	Analysis of the military legal aspects of the ratification of the Rome Statute and their significance for Ukrainian legislation.
Varga, L. (2022). The role of the ICC in conflict situations: lessons from Ukraine	An examination of the role of the ICC in conflict situations using the example of Ukraine and the lessons from this experience.
Shabas, Washington (2017). Introduction to the International Criminal Court	Introduction to the ICC, its functions, procedures and its impact on international law.
Maloney, G. (2021). The Rome Statute and its impact on national legislation: lessons from African states	Impact study of the Rome Statute on national legislation, on the example of African countries.
Damasca, M. (2020). The impact of the Rome Statute on national courts: a European perspective.	Analysis of the Rome Statute's impact on national courts in Europe and the problems in this area.
Re, C. (2022). The Rome Statute in the Global South: Prospects and challenges	Study of the challenges and prospects of the ratification of the Rome statute by the countries of the Global South.
Heller, KJ (2021). ICC Jurisdiction and State Cooperation: Lessons from Recent Cases	Analysis of the ICC's jurisdiction and cooperation of states in recent cases.
Chappell, L. (2023). The challenges of ratifying the Rome Statute: a comparative study	A comparative study of the challenges faced by countries in ratifying the Rome Statute.
Albrecht, H. (2020). The Rome Statute and national implementation: the case of Eastern Europe	Implementation analysis of the Rome Statute in the national legal systems of Eastern European countries.
Sweeney, J. (2023). Balancing sovereignty and accountability: Implications of the Rome Statute for post-conflict states	Discussion of the balance between sovereignty and responsibility in the context of the Rome Statute for post-conflict countries.
O'Keefe, R. (2021). The Rome Statute and national courts: a comparative perspective.	Comparative analysis of the Rome Statute's impact on national courts in different countries.
Kalyan, M. (2022). Assessing the impact of the Rome Statute on national legal frameworks: an overview.	Review on the impact of the Rome Statute on national legal systems and prospects for their adaptation.
Caron, D. D. (2020). The role of the ICC in the prevention of atrocities: an effectiveness study	Research on the ICC's role in preventing crimes against humanity and its effectiveness.

In view of the ongoing war with russia, the works of Kravchenko (2023) and Tkachenko (2022) highlight the importance of prosecuting war criminals. International justice can help bring to justice those who committed war crimes on the territory of Ukraine, but it also creates a risk of prosecution of the Ukrainian military.

The analysis results demonstrate that while ratification of the Rome Statute may provide Ukraine with a strong tool to combat war crimes, there are also significant risks and challenges that need to be addressed. Further research should focus on the following key aspects:

Impact on sovereignty, i.e. more research is needed on how the ratification of the statute may affect Ukraine's sovereignty and its relations with other states;

legal integration, i.e. more research is needed on how to integrate the provisions of the Rome Statute into the Ukrainian legal system without creating legal conflicts or risks for the Ukrainian military;

international experience, i.e. studying the experience of other countries, in particular those that have experienced conflicts, can help Ukraine avoid possible mistakes;

cooperation with international organisations, i.e. the study should cover the issue of Ukraine's cooperation with international organisations, particularly the UN and the ICC, for more effective use of international justice instruments.

Thus, ratification of the Rome Statute remains a problematic issue for Ukraine in the context of the ongoing war. Further research is needed to maximise the benefits and minimise the risks, with particular attention to the legal, political and international aspects of this process.

Studying the options for Ukraine's ratification of the Rome Statute of the ICC requires a comprehensive approach that encompasses several methodological approaches [1-10]. The main methods that can be used for this type of research include:

1. *Comparative method.* This method analyses the experience of other countries that have ratified the Rome Statute. Using a comparative approach, it is possible to identify the benefits and risks for Ukraine by studying examples of both successful and problematic implementation of the statute in national legal systems. For example: a study of the ratification of the Rome Statute in Eastern European countries (Albrecht, 2020); an analysis of the consequences of ratification for African countries (Meloni, 2021).

2. *Analysis of legal documents (documentary analysis).* This method involves the study of international and national legal acts related to the Rome Statute, including Ukrainian legislation and international treaties. The approach allows for the identification of legal gaps and consequences that may arise during ratification, as well as possible ways to address them. For example, analysing the provisions of the Rome Statute with the Constitution of Ukraine and other legislative acts; studying the decisions of the Constitutional Court of Ukraine on the possibility of ratification.

3. *Empirical method.* Empirical research may involve interviewing experts, lawyers, diplomats and government officials with experience in international law. This will help identify Ukraine’s most realistic options and challenges in the ratification process. For example, conducting interviews with experts in international criminal law and Ukrainian human rights defenders, interviewing politicians and government officials involved in the development of legislative changes for ratification.

4. *Modelling and forecasting.* This method involves the creation of possible scenarios for the development of events after the charter ratification. Modelling of additional estimates of both positive and negative consequences for Ukraine in various areas, from international relations to domestic legislation. For example, it forecasts the impact of ratification on Ukraine's relations with other countries, especially russia, modelling the impact of ratification on the national judicial system and changes in military law.

5. *Historical and legal method.* The historical and legal method involves the study of historical precedents and processes of international justice, particularly the actions of the ICC in other conflicts. This helps to understand better how similar cases have been resolved and what to expect in the future. For example, researching the ICC's historical decisions in other conflicts, such as the situation in Rwanda or Yugoslavia and analysing the role of international tribunals in post-conflict societies.

6. *Scenario and risk analysis method.* The method involves the creation of detailed scenarios that take into account all possible consequences of the ratification of the Rome Statute, both positive and negative. It also assesses Ukraine’s economic, political and legal aspects. For example, assessing the risks to the national judicial system of Ukraine, including some legal conflicts regarding the prosecution of Ukrainian military personnel, analysing the political consequences for Ukraine's relations with other countries, in particular, those that have not ratified the Rome Statute (e.g. russia,

the United States), forecasting economic and diplomatic risks associated with exemplary international sanctions or support from Western partners.

7. *Systemic analysis*. A systematic approach will help to study the issue of ratification of the Rome Statute as a complex phenomenon that affects various sectors of the state: political, legal, military and international. This method makes it possible to determine how these sectors interact and assess the overall effect of ratification for Ukraine. For example, assessing the impact of ratification on the interaction between the branches of power in Ukraine (legislative, executive and judicial), analysing the impact of ratification on the national security and defence strategy, exploring the possibilities of involving the international community in conflict resolution after the ratification of the treaty.

8. *Sociological methods.* Sociological surveys allow to study public opinion on the ratification of the Rome Statute, which involves researching how society perceives this step, as well as the selection of key aspects that influence support or rejection of this process. For example, a sociological survey on public support for the ratification of the Rome Statute and its possible consequences, studying the positions of various social groups, such as the military, human rights defenders, politicians and ordinary citizens, on ratification issues.

9. *Legal audit.* This method involves a detailed analysis of current national legislation to determine its compliance with the provisions of the Rome Statute. Legal due diligence allows us to identify gaps in national legislation that may become an obstacle to ratification and to make changes to adapt it to international standards. For example, analysing the compliance of the Constitution of Ukraine and other legislative acts with the provisions of the Rome Statute, and assess the most important legal reforms for the full implementation of the Rome Statute in Ukrainian legislation.

10. *Case Study.* The case study method requires a more detailed study of specific conflicts or precedents related to the ratification of the Rome Statute by other countries or the actions of the ICC in specific conflicts, which allows the implement of the experience gained in the Ukrainian context. For example, studying the experience of the Balkan countries or African states that have ratified the Rome Statute in the context of their internal conflicts and studying ICC judicial precedents related to war crimes and crimes against humanity.

11. *Political analysis.* The political analysis focuses on the possible political implications for Ukraine following the ratification of the Rome Statute. This involves assessing the changes in domestic policy and relations with other states and international organisations. For example, analysing the impact of ratification on Ukraine's relations with russia and other countries that are not parties to the Rome Statute, assessing possible pressure from international partners on Ukraine to speed up the ratification process and its political positioning.

12. *Economic analysis.* The economic analysis helps to assess the feasibility of economic research for Ukraine in the context of ratification of the Rome Statute. This includes the costs of legal reforms, participation in international tribunals, and whether economic sanctions or support from the international community are possible. For example, estimating the costs of implementing the Rome Statute and establishing the relevant infrastructure in Ukraine and analysing the economic benefits of increased international cooperation after ratification, including international assistance.

Various research methods, such as comparative analysis, legal audit, modelling, case studies, empirical research, and others, allow for a deep and comprehensive assessment of all the options for Ukraine's ratification of the Rome Statute of the ICC. Combining these methods will help to get a complete and adequate picture of the consequences for Ukraine’s political, legal, economic and international spheres, which is extremely important in the ongoing war.

Results

The Rome Statute is an international treaty that established the ICC in 1998 [1-18]. It seeks a legal framework for the prosecution of those responsible for the most serious international crimes,

such as genocide, war crimes, crimes against humanity and crimes of aggression. The main method of the statute is to ensure justice and fight impunity for these crimes at the global level, i.e. to reflect the norms of humanitarian law. The Rome Statute is primarily based on international humanitarian law (IHL) principles, particularly the Geneva Conventions. The main purpose of this law is to protect civilians during armed conflicts, to limit the methods and means of warfare, and to protect persons not taking part in hostilities. The ICC has jurisdiction to prosecute those who violate these rules.

The Rome Statute's main task in the global security and defence system is to ensure justice [1-18]. It aims to prosecute those who have committed the most serious crimes [1-11]. Preventing crimes against humanity and war crimes is an element of the global security system, as it demonstrates stability and the desire for peace.

The main challenges for the Armed Forces of Ukraine (AFU) in the event of Ukraine's ratification of the Rome Statute include pressure on military operations. If the Rome Statute is ratified, the Ukrainian Armed Forces may face restrictions on the use of certain methods or means of warfare, and once ratified, their actions will be under close international scrutiny, which may require more careful planning of operations to avoid violations of international humanitarian law. This process will require a clear understanding of how international law will affect military operations, as well as the adaptation of the Ukrainian Armed Forces to the new legal realities.

To ensure internal preparation in the event of ratification of the Rome Statute, Ukraine should improve its internal legal and military structures to prevent possible allegations of humanitarian law violations, including training military commanders, lawyers and judges to respond quickly to any cases that the ICC may bring. Ukraine is at an important stage of making strategic decisions regarding the ratification of the Rome Statute in the context of the ongoing war with russia. Completing this process may affect the country's future both regarding national security and international politics.

The main long-term implications of ratifying of the Rome Statute for Ukraine include international influence and legitimacy. The ratification of the Rome Statute will increase Ukraine's international legitimacy in the eyes of the international community, especially among democratic states that support the rule of law. It will also strengthen its position in international organisations such as the UN and the EU. Ukraine's ratification of the Rome Statute of the ICC has both potential benefits and challenges in the context of russia's armed aggression. The main advantages and challenges of ratifying the Rome Statute in Ukraine in the context of the ongoing russian-Ukrainian war are presented in Table 2.

The ratification of the Rome Statute has significant potential to strengthen Ukraine's position in the international arena and to facilitate justice for war crimes but it also brings several challenges, including the risk of political attacks on the Ukrainian military and additional pressure from russia.

Table 2. Main benefits and challenges of ratification of the Rome Statute in Ukraine during the war

Benefits	Challenges
Strengthening international support. Ratification of the Rome Statute will provide Ukraine with additional moral and political authority in the international arena, strengthening its position in the fight against aggression. This will allow Ukraine to attract support from Western allies and international organisations more effectively	*Political vulnerability for the Ukrainian military personnel*. During active warfare, there is a risk that the actions of individual Ukrainian service member may be subject to investigation by the ICC. This can have political consequences and create a negative image for the country, even in cases where the actions are legal in an armed conflict.
Prosecution of war crimes. Ratification will allow the prosecution of individuals involved in war crimes and crimes against humanity, including russian military and political figures. This will increase the level of accountability for violations of international humanitarian law.	*Delay in trials.* The ICC is known for lengthy investigations, so the process of prosecuting war crimes can take years. This may disappoint a part of society that expects rapid justice.

Continuation of the table 2. Main benefits and challenges of ratification of the Rome Statute in Ukraine during the war

Strengthening the rule of law. Ratifying the ICC will be an important step towards improving the legal protection of both military and civilians, which can contribute to developing the rule of law in Ukraine.	*Reaction of russia and its allies.* russia, which does not recognise the jurisdiction of the ICC, may further escalate its aggression or take diplomatic and political measures to put pressure on Ukraine. This could include the intensification of information campaigns that discredit Ukraine in the international arena.
Preventing impunity. Creating a mechanism for prosecuting war criminals can deter further violations by the aggressor, especially if these crimes are documented for further use in courts.	*Legal and organisational difficulties.* Ratification of the Rome Statute requires the alignment of Ukrainian legislation with international standards, which can be a complex and time-consuming process, especially during wartime.

The ratification of the Rome Statute of the ICC during the war with russia several threats to Ukraine, especially in the context of possible military operations of Ukrainian units on the territory of russia and strikes on its territory.

The main threats to the Armed Forces of Ukraine and the state as a whole include:

1. *Legal risks for the Ukrainian military:*

- possible accusation of war crimes, as military actions on the territory of russia, even if they are legitimate from a military point of view or are a response to aggression, may be subject to investigation by the ICC (we are talking about strikes on military facilities, infrastructure or even accidental civilian casualties, which can be classified as ‘war crimes’ under international law);
- investigating the proportionality of the strikes, as the ICC closely analyses the principle of proportionality of military action, i.e. whether civilian casualties and destruction are proportionate to the military objectives achieved. Even strikes against legitimate military targets on the territory of russia can be investigated if they damage to civilian objects or the population.

2. *Political vulnerability and reputational damage:*

- information and political attacks by russia, as russia, which actively uses propaganda and disinformation, may use the ratification of the Rome Statute to accuse Ukraine of ‘illegal military actions’ and war crimes. This could lead to international scandals, including possible cases at the ICC, even if these accusations are not substantiated;
- increased international pressure, as some countries and organisations may demand that Ukraine limit military operations on russian territory or refrain from attacking russian infrastructure to avoid war crimes charges, which could limit Ukraine's ability to conduct active defence and retaliate.

3. *Difficulties in proving the legality of military actions*:

- investigations by international bodies: as the ICC acts independently, it can open an investigation against any party to the conflict, including Ukraine. If Ukrainian units carry out operations on russian territory, even in response to aggression, this may be grounds for an investigation into compliance with international humanitarian law;
- vulnerability due to a lack of understanding of the war context, as the ICC may consider specific operations of the Ukrainian military without taking into account the full picture of the war or specific circumstances, which may lead to misinterpretation of certain actions as disproportionate or illegal.

4. *Risk of being accused of crimes of aggression:*

The right to self-defence and its limits, although Ukraine is acting within the framework of the right to self-defence enshrined in Article 51 of the UN Charter, some international human rights organisations may challenge the legality of Ukrainian strikes on russian territory, especially if these

strikes are considered ‘crimes of aggression’, which also fall under the jurisdiction of the ICC following the amendments to the Rome Statute.

5. *Danger of asymmetric interpretation of the conflict:*

A one-sided focus on Ukraine's actions because although russia also violates international humanitarian law, its rejection of the Rome Statute means that the ICC cannot directly investigate the actions of the russian military. Instead, Ukraine, as a ratifying state, may be subject to stricter legal scrutiny, which could create an asymmetrical situation where the actions of the Ukrainian military are the subject of international scrutiny.

In other words, Ukraine's ratification of the Rome Statute during the war with russia creates risks for the Ukrainian military, particularly, due to the possibility of investigations into actions on russian territory or strikes on russian targets. While ratification strengthens Ukraine's legal position in the fight against the aggressor, it may also open the door to international legal attacks against Ukraine and increase political pressure that could limit its military actions. In the current complex military and political situation, ratification of the Rome Statute by Ukraine during the ongoing war with russia is a difficult decision that has both strong arguments in favour and serious risks against it. The position on this issue depends on the balance between the desire for justice and international support and the risks for the Ukrainian military in an active conflict.

The main arguments in favour of Ukraine's ratification of the Rome Statute in times of war include

bringing russia to justice. That is, the ratification gives Ukraine the opportunity to officially join the ICC and help bring the russian military and political leadership to justice for war crimes and crimes against humanity, which can create serious legal consequences for russia and help achieve justice for the victims of the war;

strengthening international support. Ratification will strengthen Ukraine's credibility in the international arena, demonstrating its commitment to the rule of law and international standards, which may attract additional support from Western countries and international organisations, strengthening their solidarity with Ukraine;

Preventing impunity. In a protracted war, it is important to have the tools to prosecute those who commit war crimes. Ratification will help to consolidate legal mechanisms that will prevent impunity and encourage the preservation of evidence of crimes;

the right to self-defence. Ukraine operates within the framework of international law, including the right to self-defence (Article 51 of the UN Charter). The ratification of the Rome Statute could strengthen the legitimacy of Ukraine's actions in the international arena, reducing the risk of negative consequences for the Ukrainian military, etc.

The main arguments ‘against’ Ukraine's ratification of the Rome Statute in times of war include

Increased risks for the Ukrainian military. The actions of the Ukrainian Armed Forces, in particular on the territory of russia, may be subject to investigation by the ICC. Military strikes on russian targets, even if they are legal, may be subject to scrutiny, which may cause legal and political difficulties;

political vulnerability. russia and its allies could use ratification to put pressure on Ukraine through international institutions, accusing it of war crimes, which could undermine Ukraine's image and create additional diplomatic problems;

unilateral attention to Ukraine's actions. russia is not a member of the ICC. This means that its actions will not be subject to automatic investigation by the court. Instead, Ukraine, having ratified the statute, may fall under international supervision, which will create an asymmetric situation where only Ukrainian actions will be subject to legal scrutiny;

Delay of justice. ICC proceedings are lengthy and may not provide immediate justice. Waiting for verdicts may create the illusion of inaction by international institutions and frustration among the population.

Ukraine's ratification of the Rome Statute during the war with russia is a step that carries both strategic benefits and significant risks. On the one hand, it will strengthen Ukraine's position in the international legal field and may help bring the aggressor to justice for its crimes. On the other hand, ratification creates legal and political challenges for the Ukrainian military, especially in the context of operations on russian territory. In the context of the ongoing conflict, it can be concluded that the feasibility of ratification depends on Ukraine's willingness to take on possible legal risks while considering the potential long-term benefits in terms of international justice and support.

Table 3 and Figure 1 present the results of the assessment of the degree of influence of positive and negative factors on the security situation in Ukraine regarding the ratification of the Rome Statute by Ukraine during the war with russia. The ratification of the Rome Statute is an important step in strengthening international support and long-term justice, but there are significant legal and political risks for Ukraine during the war.

Regarding the positive and negative factors, ratification is advisable, but it should be deliberate and balanced in the context of military strategy and political realities. Fig. 2 provides a general assessment of the pros and cons of Ukraine's ratification of the Rome Statute during the ongoing russian-Ukrainian war.

The conditions of the active phase of the ongoing russian-Ukrainian conflict significantly impact the decision to ratify the Rome Statute of the ICC. There are several options for ratification, each of which has challenges in Ukraine’s security environment.

Table 3. Assessment of the degree of influence of positive and negative factors on the security situation in Ukraine regarding the ratification of the Rome Statute by Ukraine during the war with russia

№	Factors	Overview	Values
	Positive Factors		
1	**Prosecuting russia for war crimes**	Ratification allows to formally apply to the ICC to prosecute war crimes of the russian authorities.	**15%**
2	**Strengthening international support**	Ratification strengthens Ukraine's international position as a supporter of international law, which attracts additional support.	**10%**
3	**Prevention of impunity**	Creates a mechanism for prosecuting criminals, which prevents them from impunity for their crimes.	**10%**
4	**Strengthening the rule of law**	Ratification contributes to the improvement of the justice system in Ukraine and development of legal culture.	**5%**
5	**Human rights protection support**	The ICC provides a mechanism for protecting civilian rights during the conflict, which reduces violations of international law.	**5%**
6	**Long-term legal impact**	Ensuring a post-war legal settlement based on international humanitarian law.	**5%**
7	**Increased pressure on russia**	Ratification puts additional pressure on the russian leadership, which may prevent them from committing war crimes.	**10%**
8	**Possibility of international prosecution**	Support for international legal mechanisms will allow Russia and other parties of the conflict to be brought to be prosecuted.	**5%**
9	**Strengthening relations with the EU and NATO**	Ratification of the Rome Statute is an important signal to EU and NATO partners regarding Ukraine's commitment to international standards.	**5%**

Continuation of the table 3. Assessment of the degree of influence of positive and negative factors on the security situation in Ukraine regarding the ratification of the Rome Statute by Ukraine during the war with russia

	Negative Factors		
1	**Risk for the Ukrainian military personnel**	The actions of the Armed Forces of Ukraine on the territory of russia may become the subject of an ICC investigation, even if they are legitimate military operations.	**20%**
2	**Information and political attacks from russia**	russia may use the ratification to accuse Ukraine of "war crimes", which will intensify the information war.	**10%**
3	**One-sided attention to Ukraine's actions**	Since russia does not recognise the ICC, Ukraine's actions may be subjects to greater legal pressure.	**15%**
4	**Delayed justice and lengthy trials**	Trials can last for years, which may not meet expectations of rapid justice during an active conflict.	**10%**
5	**Political vulnerability of the Ukrainian military personnel**	Military personnel of Ukraine could become the target of international pressure or investigations, which would have a negative impact on the army.	**10%**
6	**Impact on military operations**	International attention may limit Ukraine's actions, leading to caution in planning operations in russia.	**5%**
7	**Risks of political isolation from partners**	Some international partners may avoid cooperation with Ukraine due to fears of involvement in ICC investigations.	**5%**
8	**Impact on diplomatic relations**	Ratification could negatively affect diplomatic relations with countries that do not recognise the ICC, including russia.	**5%**
9	**Complication of post-war negotiations**	Possible ICC investigations could complicate the process of negotiations and peaceful settlement with russia.	**5%**

General assessment on the necessity of ratification of the Rome Statute during the war: For: 60%, Against: 40%.

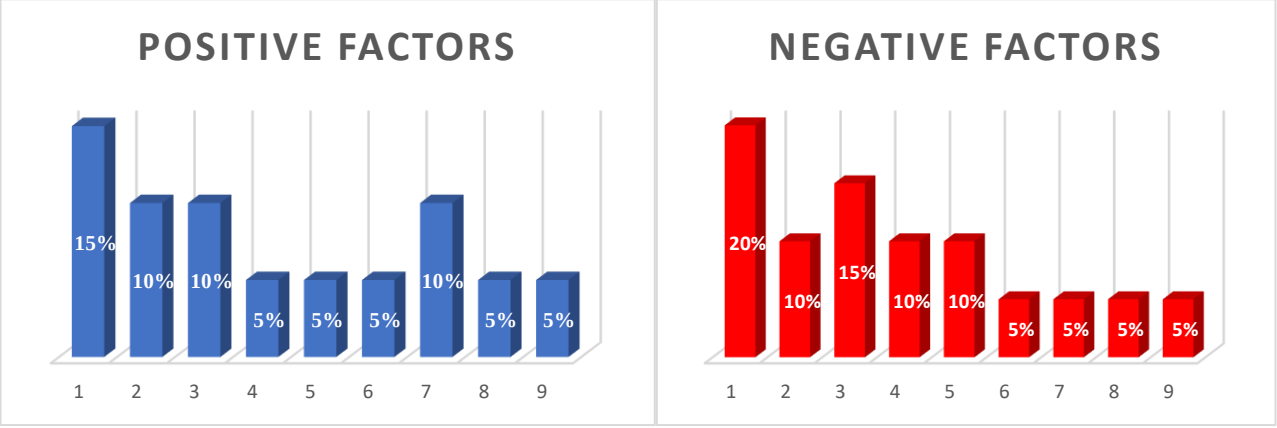


Figure 1. Assessment results on the level of influence of positive and negative factors on Ukraine's ratification of the Rome Statute

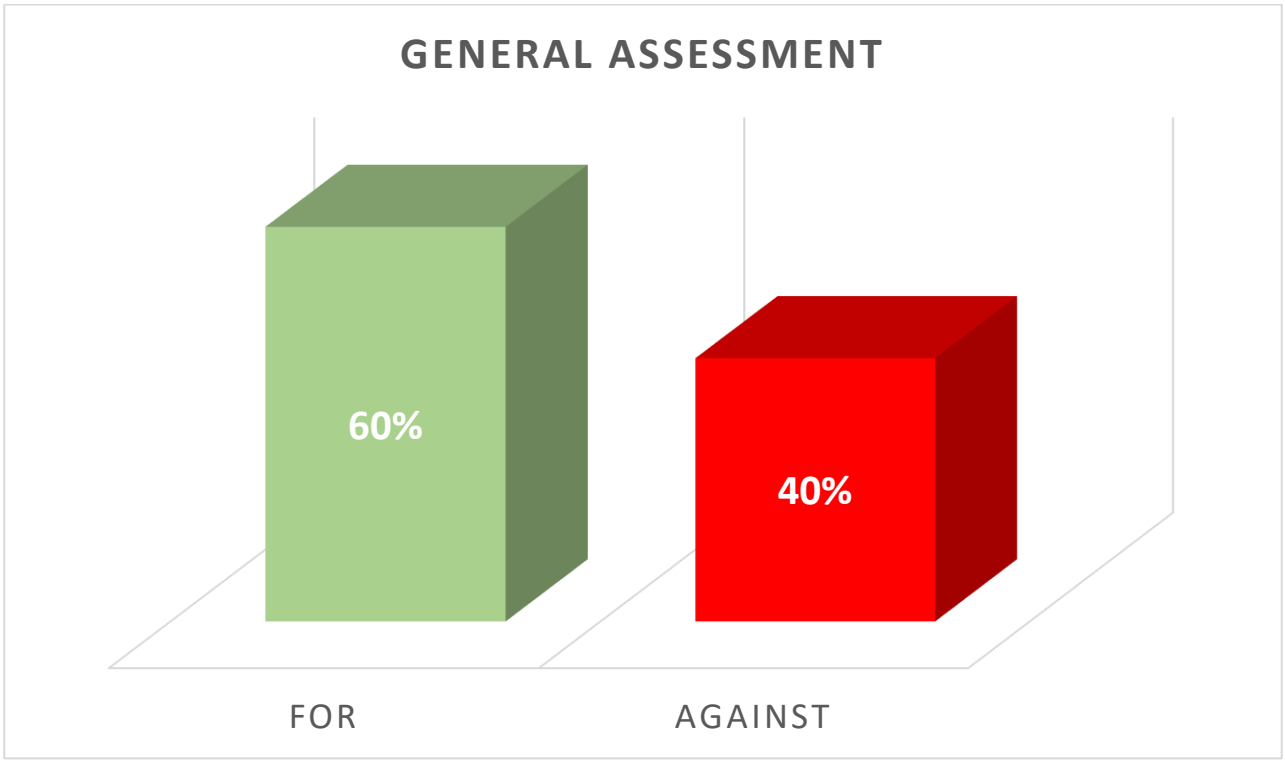


Figure 2. The general assessment of the "for" and "against" of Ukraine's ratification of the Roman Statute during the ongoing russian-Ukrainian war.

Let us identify the main options for ratifying the Rome Statute of the ICC and their potential consequences for Ukraine:

Option 1. Full ratification of the Rome Statute of the ICC. Ukraine fully ratifies the Rome Statute and becomes a full member of the ICC with all the obligations and rights provided by the Statute. The main challenges of changing the security environment for Ukraine are:

russia's reaction. Full ratification could provoke an aggressive response from russia, as the ICC would open the way to an international investigation of war crimes committed by the russian troops. This could lead to an escalation of warfare and aggravation of the conflict;

a large-scale increase in risks for the Ukrainian forces. Since the ICC may investigate war crimes, this could result in risks for the Ukrainian army if accusations of violations of international humanitarian law are made. This could create tensions with Ukrainian society and among the military;

international support. Ratification could increase international support for Ukraine from the EU, with other Western states supporting Ukraine's position on the world stage.

Option 2. Partial ratification or with restrictions. Ukraine ratifies the Rome Statute with certain limitations, such as ICC's jurisdiction over specific crimes or periods. The main challenges of changing the security environment for Ukraine are:

political pressure. Partial ratification may cause criticism from both the international community and human rights organisations, as it may be viewed as an attempt to avoid full responsibility for potential crimes.

russia's reaction. russia may still perceive this step as a threat, but the level of aggression may be less than in the case of full ratification. On the other hand, this could create additional tension in diplomatic relations;

limiting cooperation with the ICC. Partial ratification could limit Ukraine's cooperation with the ICC and make it more difficult to prosecute those who committed war crimes on Ukrainian territory, which could affect international partners' trust and support for Ukraine on the world stage.

Option 3. Postponing ratification until the conflict ends. Ukraine postpones ratification of the Rome Statute until the active phase of the war is over or until a certain level of stability is achieved. The main challenges of the changing security environment for Ukraine are:

loss of international trust. Postponing ratification could be perceived as a refusal to fully participate in international justice, which could negatively affect international support of Ukraine. It could create the impression that Ukraine is trying to avoid responsibility or to protect its military personnel from prosecution;

internal political pressure. Internal pressure from nongovernmental organisations (NGOs) and political opponents may increase, as human rights activists may insist on the necessity of immediate ratification to ensure justice for victims of war crimes.

postponement of international investigations. Delaying ratification may lead to delays in ICC investigations of crimes committed during the conflict. This could affect Ukraine's ability to achieve justice for victims and document violations.

Option 4. Cooperation with the ICC without full ratification. Ukraine continues to cooperate with the ICC based on the declaration of recognition of the ICC's jurisdiction on a temporary or selective basis, without full ratification. The main challenges of the changing security environment for Ukraine are:

uncertainty in the legal sphere. Cooperation without full ratification could create legal conflicts and cause uncertainty about the status of Ukraine's cooperation with the ICC in the future, which could weaken Ukraine's position in the international arena;

russian disinformation. russia can use partial ratification as an argument in the international information war, claiming that Ukraine does not have full legal responsibility for its actions during the conflict;

limited access to justice. While such cooperation allows the investigation of certain crimes, the lack of full ratification may limit Ukraine's ability to use all ICC mechanisms to bring war criminals to justice.

Option 5. *The alternative is through national courts or an international tribunal*. Ukraine can choose to strengthen its national judicial system to deal with war crimes or initiate the creation of a special international tribunal to investigate war-related crimes. The main challenges of changing the security environment for Ukraine are:

limited resources. Strengthening the national judicial system or establishing a separate international tribunal may require significant resources and time. This may be difficult during the active phase of the conflict when the focus is on combat actions;

international community's trust. While Ukraine will be able to control the processes of national courts, it might not receive the same support and credibility as an ICC decision. Meanwhile, the international tribunal may face difficulties with legitimacy and recognition;

russia's reaction. Regardless of the form of justice, russia is likely to oppose any attempts to bring its military and political officials to justice, which could affect the course of warfare and diplomatic relations.

Each possible option for Ukraine to ratify the Rome Statute of the ICC has its security and political challenges. Full ratification could significantly increase international support for Ukraine but at the same time, cause an escalation of the conflict with russia and put the Ukrainian military personnel at risk. Partial ratification or cooperation without full ratification may reduce the risk but will limit Ukraine's ability to use all instruments of international justice. In any case, Ukraine needs to balance all aspects of national security, international relations and justice when making ratification decision.

The table below contains expert assessments of the priority, danger level and potential positive consequences for Ukraine in the case of ratification of the Rome Statute of the ICC (Table 4). For the

calculation, we used scores on a scale from 1 to 10 (where 1 is the minimum level and 10 is the maximum level). Positive outcomes are expressed as a percentage.

Here is a more detailed analysis of the scores for each option defined for Ukraine's ratification of the Rome Statute of the ICC.

Option 1. Full ratification of the Rome Statute. Priority (9/10): Full ratification is the most important in terms of international justice and support for Ukraine. It allows the use of all ICC mechanisms to investigate war crimes. Danger level (8/10): High risk due to possible escalation of the conflict with russia and dangers to the Ukrainian military personnel. Positive consequences (80%): international support and the possibility of bringing war criminals to justice.

Table 4. Expert assessments of the priority, danger level and potential positive consequences for Ukraine in the implementing of each of the options for ratyfing the Rome Statute of the ICC.

Ratification options	Priority (1–10)	Danger level (1–10)	Assessment of positive consequences for Ukraine (%)
Full ratification of the Rome Statute	9	8	80%
Partial ratification or with restrictions	7	6	65%
Postponing ratification until the conflict ends	4	4	50%
Cooperation with the ICC without full ratification	6	5	60%
The alternative options through national courts or an international tribunal	5	7	55%

Option 2. Partial ratification or with restrictions. Priority (7/10): The option allows Ukraine to control the process to a certain extent but limits full integration into the ICC. Danger level (6/10): The level of danger is decreasing, but there are still risks for the Ukrainian military personnel and aggravating relations with russia. Positive consequences (65%): limited support and partial cooperation with the ICC.

Option 3. Postponement of ratification until the conflict ends. Priority (4/10): postponing ratification reduces Ukraine's ability to attract international support and initiate justice processes during the conflict. Danger level (4/10): lower risks for Ukrainian military personnel and relation with the aggressor. Positive consequences (50%): delayed positive consequences after the end of the conflict.

Option 4. Cooperation with the ICC without full ratification. Priority (6/10): Cooperation with the ICC enables flexibility but does not require full acceptance of the statute's obligations. Danger level (5/10): medium risks due to limited responsibility to the ICC. Positive consequences (60%): the possibility of international investigation of crimes, but without full implementation.

Option 5. Alternatives through national courts or an international tribunal. Priority (5/10): This option allows to maintain national control but requires a lot of resources and time. Danger level (7/10): high risks due to insufficient support from the international community and weaker legal capacity. Positive consequences (55%): less effective justice mechanism compared to the ICCC, but allows to retain control.

Full ratification of the Rome Statute has the highest priority, as it opens up the most significant opportunity for Ukraine in international justice and increases international support. However, this option involves the highest level of risks to Ukraine's security.

Partial ratification and cooperation without full ratification are acceptable options that balance benefits and risks, but their effectiveness will be lower.

Discussions

Ratification of the Rome Statute has many positive aspects, including international justice and support, but the legal and political risks for the Ukrainian army and state are significant in an active warfare. Overall, the assessment shows that ratification makes sense but requires a limited approach and a deeper understanding of the possible consequences.

Conclusion

In this article, the authors analyse five possible options for the ratification of the Rome Statute and their impact on Ukraine's security environment. Each option was assessed based on the priority criteria, level of danger and positive consequences for the country.

The highest priority option is full ratification of the Rome Statute. It allows Ukraine to fully use international justice, which can help in the investigation of war crimes committed during the conflict and provide international support. However, this option involves a high level of danger, as russia may respond by escalating the conflict and there are risks for the Ukrainian military regarding possible accusations from the ICC.

Partial ratification and cooperation with the ICC without full ratification are alternative options that allow Ukraine to reduce internal and external security risks. However, these options may limit the ability to prosecute war crimes and do not guarantee full international support.

Postponing ratification until the active phase of the conflict is over and using alternative paths through national courts or an international tribunal are of lower priority. Postponement may reduce risks, but it also reduces international confidence in Ukraine. The alternatives through national courts require significant resources and time, and may not receive sufficient support from the international community.

Hence, Ukraine's most appropriate approach is a comprehensive balance between the pursuing international justice and considering security risks. Further research should focus on developing options that will allow Ukraine to effectively use the ICC's capabilities while minimising threats to national security and protecting its interests in the context of the ongoing conflict.

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Аналіз та оцінювання варіантів ратифікації Україною Римського статуту Міжнародного кримінального суду в умовах активної фази російсько-українського конфлікту, що триває: виклики безпековому середовищу

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Анотація. Актуальність статті обумовлена необхідністю чіткого визначення стратегії України у сфері міжнародного правосуддя на тлі війни з росією, що триває. Ратифікація Римського статуту Міжнародного кримінального суду є важливим політичним та правовим кроком, який може відкрити можливості для притягнення до відповідальності винних у воєнних злочинах, зокрема російських військових та їхніх командирів, котрі здійснюють агресію на території України. Однак цей процес також несе низку викликів для безпекового середовища України, оскільки може призвести до ескалації конфлікту, активізувати дипломатичний тиск з боку росії та вплинути на внутрішньополітичну ситуацію, зокрема в аспекті правового статусу українських військових. Крім того, важливим є врахування досвіду інших держав у ратифікації Римського статуту, їхніх успіхів та труднощів, а також оцінка можливих політичних, правових та безпекових наслідків для України у разі різних варіантів реалізації цього процесу. Тому головною метою статті є вивчення питання, яке стосується ратифікації в умовах активної фази війни, що триває, оскільки це допоможе знайти збалансоване рішення, яке максимально ефективно відповідає інтересам національної безпеки України та міжнародної спільноти. Основними методами досліджень є методи: аналізу та синтезу, експертного опитування та порівняння, методи дедукції та формалізації. Основними результатами статті є те, що в ній: здійснено аналіз іноземних та вітчизняних джерел з питань ратифікації Римського статуту Міжнародного кримінального суду в системі державних

органів, а також аналіз та оцінювання основних методів проведення дослідження варіантів ратифікації Україною Римського статуту; визначено мету, основні завдання, переваги та виклики ратифікації Римського статуту в Україні в умовах війни; визначено основні загрози для Збройних Сил України та України в цілому у разі ратифікації нею Римського статуту; сформовано основні аргументи “за” та “проти” ратифікації Україною Римського статуту; визначено основні позитивні та негативні фактори ратифікації Україною Римського статуту під час війни з росією та проведено оцінювання важливості їхнього впливу на безпекову ситуацію в Україні; визначено основні варіанти ратифікації Римського статуту та їхні потенційні наслідки для України. Матеріали статті можуть бути корисними представникам керівництва Збройних Сил України та Міністерства оборони України, фахівцям у галузі державного управління, а також науковцям і дослідникам.

Ключові слова: безпека, безпекове середовище, загрози та виклики, Збройні Сили України, міжнародне гуманітарне право, збройний конфлікт, національна безпека, Римський статут Міжнародного кримінального суду, методи дослідження ратифікації Римського статуту, оцінки впливу позитивних та негативних факторів.