UDC 341.482

V.V. Yarmolenko
(National Aviation University, Ukraine)

Institute of international criminal responsibility

The article is devoted to the modern condition, guidelines and problems of institute of criminal responsibility and ways of maintaining international law and order.

Urgency of this topic connected with Russian aggression against Ukraine the international community of nations asks a question about internationally responsibility of Russia and foremost international individual criminal responsibility of Russian officials.

The purpose of the topic is to investigate history of formation and developing of institute of international criminal responsibility, look into sources of this branch, and estimate modern condition, and main asperities.

The question of legitimacy of using the armed force, conduct of aggressive p olitics from ancient times attracted attention of scientists.

First reasoning on this theme expounded M. T. Cicero, Hugo Grotius[1], Charles Montesquieu, and beginning from XX of century the amount of the scientists disturbed by the theme of violationn of prohibition of the use of military force by the states for realization outwardly of political aims, extraordinarily grew planning and realization of politics of aggressive war.

On the modern stage this topic was widely investigated by Shwaizenberg G, Paust G.G, Lukashuk I.I, Brand G, Aleksandrov G.N, Raginsky M.Y, Smirnov L.N, Romashkin P.S, Boiser P, Finch G, Bandecas I, Broundly I, Martens J.F, Raite K.

Among Ukrainian scientists it was paid attention by Buromensky M.V., Lukashuk I.I. [2], Butkevich V.G., Kuleba D.

The peculiarity of this institute is that the formation of the concept of the person's ability to be responsible for committing a crime of aggression at the international level began not so long ago, as the process of formation of the institution of State responsibility. This is partly due to the fact that, according to classical international law, the subject of this branch is the state and only it, and not the individual, has international legal capacity, and, accordingly, only the state may have international competence - that is, it is responsible for international law. However, sporadic attempts to bring individuals to criminal responsibility at the international level still took place [3].

The first such case can be considered condemnation and execution for the unconventional war of Conradin von Hohenstafen, the Duke of Swabia, in Naples in 1268 [4].

Over the next 700 years there has been no significant change in the development of the institute; only after World War II there has been a global development of all international law and this institution as a whole. The most important achievement was the establishment of the Nuremberg Military Tribunal and the prosecution of a large number of most omnipotent politicians and military persons throughout Europe [5].

The merit of the Nuremberg Tribunal is precisely in the "super-positivity" of its decisions, which, according to the scientist-internationalist O. Merezhko, are "examples of the effectiveness of natural law in the twentieth century [6]." Domestic and foreign lawyers emphasize the fundamental importance of interpreting international-legal crimes, primarily on the principles of natural law, that the principle "is not a crime without punishment" is understood in the natural-legal aspect, when it comes to the crime not in the law of state, namely natural law. In this case, famous lawyer P. M. Rabinovich pays attention to the provisions of the sentence of the Nuremberg Tribunal, which explicitly states that it (the verdict) is "an expression of the international law that existed at the time of the formation of this tribunal [7]" and that who is aggressive, contrary to the concluded agreements and without warning, he attacks "should know that he is doing a wrong thing". The Tribunal stated that "... the accused should have been aware that they were acting in contravention of international law. [8]"

The outcome of this tribunal was the Statute of the International Military Tribunal, part of which is contained in the Charter of the United Nations, namely the classification of international crimes [9]. Over the past years, the normative legal framework for international criminal responsibility has been widely developed. The main judicial body is the International Criminal Court, but the prosecution of international crimes can be carried out even at the level of the national court, as happened with Saddam Hussein [10].

Subsequently, the following normative legal acts were adopted:

- Charter of the Tokyo International Military Tribunal for the Far East in 1946;

-Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia in 1993;

-Statute of the International Tribunal for Rwanda in 1994;

-Agreement between the United Nations and the Government of Sierra Leone on the establishment of the Special Court for the Republic of Sierra Leone in 2000;

-Geneva Conventions on the Protection of Victims of the War of 1949 and the Additional Protocols thereto of 1977;

-Convention on non-application of the statute of limitations for war crimes and crimes against humanity, 1968;

-European Convention on the Non-Application of the Limitation Period for Crimes against Humanity and War Crimes 1974

-The Rome Statute of the International Criminal Court 1998 [11].

Thus, significant problems of our days is bringing Russia to International responsibility and bringing her public servants to international criminal responsibility for the crime of aggression against Ukraine. The leaders of the western states discussed this topic, however a present international law not always has forces for bringing certain individuals to responsibility, especially if they are operating leaders of the states.

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