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Intervention of the Principle of Integration in the International Criminal Court

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Abstract ;(not more than 10 Lines)

In this intervention, I managed to tackle the principle of Integration in the International Criminal Court. In the beginning, I reviewed its concept by clarifying its definitions at the level of the International Criminal Court, and explaining its linguistic meaning in addition to its alleged justifications. Then I dealt with the study of the legal basis for this principle and its different forms, in other words; its types. After that, I focused on the legal issues for the existence of the jurisdiction of the court, by clarifying the conditions for addressing this principle and how to exercise complementary jurisdiction. Finally, I ended up with a number of results and evaluations regarding the application of this principle.

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Introduction:

In the wake of the genocides suffered by Rwanda and the former Yugoslavia in the late 1990s, [1] The governments of the two aforementioned countries came together to establish an independent and permanent international criminal court with the power to hold the most responsible perpetrators of serious crimes accountable, regardless of their status. [2]

As for the essence of the new system that emerged from the Rome order, it lies in the axiom that serious crimes cases should be dealt with in national courts in the first place, while the International Criminal Court analyses some cases under very specific circumstances, as it is considered a court of last resort. [3]

The Rome Statute stipulates in its first article that the International Criminal Court is complementary to national criminal jurisdictions. [4]

The International Criminal Court is an institution based on a binding treaty only for its member states, and not a commitment over the states and is not a substitute for it, as it is an extension of the national criminal competence established by a treaty, when ratified becomes part of the national law, and accordingly it does not go beyond national sovereignty or The national judiciary systems exceeded as long as the latter is able and intended to start its legal obligations, and this determination of the relationship between the national and the international criminal judiciary is the pivotal pillar on which the court statute of the court is called 'The principle of Integration' [5].

It is the subject of my study, so it is the importance of this principle that prompted me to study it and try to surround it and its presence through the statute of the International Criminal Court, I tried to answer the problematic that this topic may raise, speaking of which :

What is the principle of integration and what are the legal issues that require its application?

The first topic: the concept of the principle of integration

The legal system of the International Criminal Court stipulates that the latter is a complement to national judicial specializations, according to what was stipulated in the basic Rome system, we can not be in the process of integration in litigation except with the existence of the criminal court and that the state is ratified by its charter, so here the term used again and again to refer to the Rome Basic System, is 'Integration' [6].

The concept of this integration and its impact on both the International Criminal Court and the national authorities are two aspects of the controversy today on the correct ways to achieve justice in the interest of the victims [7].

The first requirement: the definition of the principle of Integration and its justifications

We find that the statute of the International Criminal Court is to set up a specific definition of the principle of integration, and if it had referred to it in the preamble and in the first article of it [8], where the preamble made it clear that the states parties to this statute confirm that the court is complementary to the national criminal judicial systems and in cases I will address later in my study.

At First: the definition of the principle of integration

It is not possible to be familiar with the concept of integration without briefing on the international criminal court system. The international community has faced an option of establishing an international court whose jurisdiction is either essential or complementary, and its system also touched on determining the concept of integration.

First: The International Criminal Court:

The Rome Basic System, which is currently signed by 139 countries- is the treaty under which the International Criminal Court was established in 2002, which is located in The Hague, Netherlands, and currently includes 123 member countries, this treaty created a recent system that combines the two courts, the national court and the International Court aims to decide on the most hideous crimes that are, war crimes, crimes against humanity, genocide and aggression actions [9].

Its system entered into practice on 1\7\2002, and its first 18 judges were elected on 12\2\2003. The current prosecutor of the court is the British Karim Khan, who was elected for a term of 9 years. [10]

As for the signatories to the Rome Statute of the International Criminal Court, they are those countries that have ratified or agreed to the Rome Statute, i.e. the treaty establishing the International Criminal Court. As of July 2008, there were 106 member states of the court, Suriname and the Cook Islands will become member states on October 1, 2008, bringing the total to 108 states, and there are 40 other countries that have signed but their legislatures approve the treaty yet, and there are also many countries that have not signed the treaty However, it hinted at its intention to approve it. [11]

As of October 25, 2016, 124 countries have ratified the International Criminal Court system. As for the Arab countries that are parties to the International Criminal Court, according to the date of their accession to the court, they are Jordan on April 11, 2002, Djibouti on November 5, 2002, and Comoros on November 1, 2006. Tunisia, June 24, 2011, and Palestine, January 2, 2015. [12]

The court can automatically exercise jurisdiction over crimes committed in the territory of any member state or committed by persons belonging to any member state, and member states must cooperate with the court, including the extradition of suspects when the court requests them to do so.[13]

The signing members have the right to Participate and vote on the procedures of the Assembly of Member States, which is the governing body of the court. Therefore, the fact that the International Criminal Court has basic jurisdiction means that it has the power to consider any case, even if the national authorities are trying to decide on it[14].

Second: The meaning of Integration:

The meaning of integration refers to the jurisdiction of the national judiciary first. Before the Preparatory Commission, some

delegations were of the view that an abstract definition of the principle would not serve any specific purpose and preferred that there be a general understanding of the practical implications of the principle in relation to the functioning of the International Criminal Court, and others felt that there would be benefit in compiling certain provisions of the draft statute They are directly related to the principle of integration , such as the provisions relating to admissibility and judicial assistance[15].

Reference was made to the principle of integration in the preamble, as it was mentioned in Article 1 of the Statute.

integration of the jurisdiction of the International Criminal Court means that the jurisdiction of the International Criminal Court is an exceptional reserve jurisdiction that complements the jurisdiction of the national judiciary of states and is not a substitute for it, meaning that the national judiciary According to the principle of the sovereignty of states, it is the competent authority to consider crimes committed on the territory of the state or by its nationals, and therefore the existence of a judiciary other than the judiciary of this state (whether international or non-international) that disputes the national judiciary in what is considered to be within its jurisdiction is considered an assault on a well-established principle in International law is the principle of the territorial sovereignty of states [16]

Therefore, when establishing the International Criminal Court, states considered that this court should not lead to its existence affecting the jurisdiction of the national judiciary or encroaching on it. In reconciling these two considerations, the opinion was decided that the jurisdiction of the International Criminal Court should be complementary to the jurisdiction of the national judiciary and not a substitute for it, and therefore the jurisdiction of the International Criminal Court would not take place unless the national judiciary is unable or unwilling to prosecute the perpetrators of international crimes, which is what was expressed It is mentioned in the Statute of the International Criminal Court through the principle of integration.

The principle reflects the preference for investigating and prosecuting those crimes in the country in which they were committed, and that principle was formulated as one of the principles of admissibility of the case before the International Criminal Court[17].

P02: Justifications for the principle of integration

There are several justifications that led to the formulation of the principle of integration, and we will address this in:

First: International Conventions asserting the importance of National Jurisdiction

It was stated in many international conventions that protecting the basics of human rights is compulsory[18], These covenants are considered as legislation for many countries, and among these covenants we find the Universal Declaration of Human Rights issued in 1948 in its eighth article, and the same meaning was confirmed by the International Institute for Civil and Political Rights for the year 1966 in its article 14[19], and these meanings were further entrenched in the international document that Approved by the General Assembly of the United Nations at its seventh conference in December 1975, which bore the title “Basic Principles Concerning the Independence of the Judicial Authority” in Document No. 05, and it is noted on these texts that they gave the right to every person, whether he was a perpetrator or a victim, or whether he was a citizen Or a foreigner, he must resort to the local authorities to preserve his rights[20].

Second - Justifications for formulating the principle of Integration in the court system:

The preamble to the Statute of the International Criminal Court mentioned the most important considerations that called for texting the principle of integration, and these considerations are:

1- Respect for the internal sovereignty of states[21].

2- The accused may not be tried for the same crime twice[22].

3- The principle of integration to avoid conflict of jurisdiction between the national criminal judiciary and the International Criminal Court[23].

The second requirement: the legal basis for the principle of integration and its forms.

The principle of integration finds its legal basis in the statute of the court and in Its legal articles, and its forms and forms differ as follows:

F01: The legal basis for the principle of integration:

The principle of integration finds its legal basis in the text of the International Criminal Court Charter, so that the latter included conditions for considering the case admissible before it, and it also included a case if the case was not of a sufficient degree of severity.

First: Cases of non-admissibility of the case:

It is concluded from the text of Article 1 of the Rome Statute that the jurisdiction to punish the most serious crimes of international concern is originally confined to the national judiciary. In the preamble and emphasized in Article 1 of the Statute, Article 17 related to admissibility stipulates [24]that the court decides that the claim is inadmissible in the case of:

1- The investigation or prosecution of the case is conducted by a state over which it has jurisdiction, unless this State is unwilling or unable to undertake the investigation or prosecution.

2 - If the investigation of the case has been conducted by a State with jurisdiction over it and the State decides not to prosecute the person concerned, only when the decision results from the State's unwillingness or inability to truly prosecute.

3- If the concerned person has already been tried for the behavior subject of the complaint, and the court may not conduct the trial in accordance with Paragraph (3) of Article 20.

Second: In the event that the case is not of a sufficient degree of seriousness

If the case is not of a sufficient degree of seriousness to justify the court taking another action to determine the unwillingness to accept a specific invitation, where the criminal court considers the availability of one or more of the following matters, according to The case, taking into account the due process recognized by international law, and these cases are[25]:

1- If the procedures are carried out or the national decision is taken with the aim of protecting the person concerned from criminal liability for crimes within the jurisdiction of the Court as referred to in Article V.

2 - If there is an undue delay in the proceedings inconsistent in the circumstances with the intention to bring the person concerned to justice.

3- Person concerned to justice In determining inability in a particular case, the Court considers whether the State is unable, because of a total or substantial breakdown of its judicial or national system, or because it is unable to bring the accused or to obtain the

necessary evidence and testimony, or is otherwise unable to carry out the procedures.

By extrapolating Article 7 of the Statute of the Special International Criminal Court[26], it becomes clear to us that the Statute of the Court has restricted the jurisdiction of the national judiciary, and its entitlement to consider the case over which it has jurisdiction with the ability and desire of the concerned state to do so, i.e. the possibility that the trial takes place in a real and serious manner and that all procedures are met. The judiciary should be fully transparent and should not be like trials aimed at protecting the person concerned from international prosecution. The mandate of the international judiciary was also restricted by the inability to initiate judicial procedures as a result of the collapse of the judicial system itself within the country, as happened in Rwanda[27].

It also necessitated the need to take into account the court's principle of legality, the statute must go hand in hand with the general principles of criminal law, which stipulate the non-retroactivity of criminalization and punishment provisions to ensure respect for rights[28].

Although the statute of the court was clear with regard to defining the nature of the relationship between the International Criminal Court and the national judiciary, this prevents a lot of controversy that arose about the eligibility of the International Criminal Court to hear cases, given the lack of clarity that marred the relationship between them. And between the Security Council in many aspects, as well as the myriad contradictions in the positions of the Security Council towards many similar issues and facts that fall within the jurisdiction of the International Criminal Court, while the conflict in Darfur was referred to the International Criminal Court by the Security Council acting under Chapter VII, it did not Those responsible for crimes against humanity committed in Abu Ghraib prison in Iraq, and violators of human rights in Palestine[29], will be held accountable. Therefore, the aforementioned contradictions have raised reservations from many countries regarding the Rome Statute and its usefulness in establishing international criminal justice that can pervade the entire international community under These double standards.

We conclude from this that despite affirming the state's wide freedom to accept this judiciary, other rulings come and restrict and cancel this reference and make this court a supreme authority over states, thus controlling the laws and decisions as well as putting the big nations as dominants so as to fulfil their political requirements[30].

P 02: Pictures of the principle of integration:

In fact, we can divide the principle of integration into different images and types, as well as relying on various divisions, but we decided to rely on the following division mentioned and in line with the idea of our note, where images of the principle of integration are summarized in three aspects, which are:

First - Substantive Complamintarity:

By substantive integration, what is meant is the integration related to the types of crimes that fall within the scope of the jurisdiction [31]of the International Criminal Court, as the objectivity here relates to the crimes under jurisdiction as mentioned in article 5 that the latter falls within the scope of the court's jurisdiction exclusively, as its formulation began with the phrase "the court's jurisdiction is limited to…" meaning that this jurisdiction is limited as the Statute stipulated that the crimes mentioned in this article and the following articles 6 and 7 must accept the jurisdiction of the court in The crimes stipulated in Article 12[32] and based on that, if a country enacted legal texts criminalizing acts that are considered crimes according to the Basic Law, and it had acceded to and ratified the international conventions that criminalize

these acts and its legal system gave these agreements the legal value of legislation, the national criminal jurisdiction was established and did not The International Criminal Court has no role as long as national courts exercise their jurisdiction in accordance with internationally recognized legal rules[33].

Second – Procedural Integration:

Based on all of the above, if the national judiciary or the international criminal judiciary exercised its jurisdiction according to the decisions related to admissibility of the case, in accordance with Article 18 of the Basic Law, which prohibits the retrial of the same person for the same crime before any other judicial authority[34], and that In application of the principle of inadmissibility of trial for the same crime twice, Article 17, Paragraph 1-c, and Article 20, which expresses the principle of procedural integration and the non-duplication of procedures in a way that may lead to the loss of the freedom of individuals, and therefore the jurisdiction may not be held for the International Criminal Court if it is The national internal judiciary, which has jurisdiction, has placed its hand on the lawsuit, meaning that it does not accept the lawsuit except in certain cases[35].

Third - Executive integration:

Executive integration means cases in which the implementation of penalties issued by the Criminal Court is contingent on being implemented by the state party, because the International Criminal Court lacks direct means to implement judicial rulings issued by it, and in order to fill this deficiency, it adopts systems The legal means provided by the relevant party states for the implementation of the sentences issued. In order to fill this deficiency, it takes from the legal systems stipulated by the concerned state parties as means of implementing the rulings issued by them, whether they are deprivation of liberty or financial, such as fines and confiscation, or compensation for the damages of the victim[36].

The second topic: the legal issues of existence of the jurisdiction of the court

The cooperation of states with the International Criminal Court is considered a vital act for them to take some necessary measures to proceed with the case and collect evidence, and among the issues that have sparked great controversy within the International Law Commission since the beginning of its exposure to the subject is the issue of the approval of a particular country that is necessary In order for the court to be able to consider a case, or is the jurisdiction of the International Criminal Court, the issue of assigning jurisdiction to the court, that the court's jurisdiction be a general jurisdiction in the face of all countries without the need for the state's approval[37], in addition to the issue of how the court exercises this complementary jurisdiction and the conditions that governing it, which comes before the question of the state's approval or rejection.

The first requirement: The Conditions for addressing the Principle of Integration.

The cooperation between the court and states is permissible and not obligatory, so this cooperation can only be at the request of states and not with direct intervention from the court. It also shows the inability or unwillingness of states to carry out investigation and prosecution.

The states concerned with integration and their inability or unwillingness to carry out investigation and prosecution:

Practicing the principle of integration, these conditions can be limited to the following:

First: The countries concerned with practicing the principle of Integration:

It came under Article 12 of the Statute of the Court, which is the text that takes into account the nature of the International Criminal Court

as an institution based on a treaty that is binding only on its member states. It is not an entity above states[38], but rather an entity similar to other institutions. Existing entities, the International Criminal Court, as we have already known about it, is not a substitute for the national criminal judiciary, but rather it is complementary to it. According to it, it is an institution to conduct justice for specific international crimes, and then the International Criminal Court is an extension of the national criminal jurisdiction established under a treaty[39], when ratified by the national parliamentary authority to become part of the national law[40], accordingly, the International Criminal Court does not infringe on the national sovereignty of the state as long as The latter was able and willing to undertake its international legal obligations, and these are the two conditions that we will detail more later[41].

As for countries that are not a party to the statute of the court, it can accept the jurisdiction of the court to hear the crime in question through a declaration deposited with the clerk's office of the court in which it decides to accept the court's jurisdiction to hear the crime in question and requires the submission of a declaration from the state on the occasion of each crime[42]

Second: The inability or desire of states to carry out investigation and prosecution:

It enters into the authority of the court the task of proving whether the state whose national courts consider the case is not willing or is not actually able to carry out investigation and trial, and the court concluded to prove the lack of desire through Consider the availability of any of the following things[43]:

01: The measures have been made, or that the national decision has been taken with the aim of protecting the person concerned from criminal accountability for one of the crimes involved in the jurisdiction of the court.

02: If an unjustified delay event in the measures, which contradicts these circumstances with the intention of providing the person concerned to justice.

It is beneficial from this that the statute has identified certain matters through which the court can extract that the state concerned does not have a serious and real desire to present the person concerned to justice or that it seeks by taking some measures or measures to protect this person from responsibility while the court can. It extracts the state's inability to consider a specific lawsuit, by researching whether the inability is due to a total or fundamental collapse in its national judicial system or because it does not have a judicial system, in a way that makes it unable to bring the accused or obtain the necessary evidence and testimony, or the court concludes that the state is unable, for other reasons, to carry out investigation and court procedures[44].

This is what happened in Libya. On June 27 of the year 2011, the International Criminal Court charged three people with crimes against humanity, due to murder and repression, namely, Colonel Muammar Gaddafi, the head of state, his son Saif al-Islam Gaddafi, the intelligence chief and his sister-in-law Abdullah al-Senussi. There was ample evidence indicating their involvement in developing a government plan to stop civil demonstrations by whatever means[45], and in November of the same year, the International Criminal Court annulled the arrest warrant issued against Colonel Gaddafi, after he was killed by rebel forces on October 20, 2011, and in May of In 2012, the new Libyan government informed the International Criminal Court that it intends to take action against Saif al-Islam Gaddafi and al-Senussi, so it submitted a letter to the Prosecutor of the International Criminal Court stating: “The Libyan government undertakes to meet the best international standards related to the conduct of investigations and actual trials alike[46].”

In fact, the Libyan Public Prosecutor opened an investigation into the serious crimes allegedly committed by Gaddafi and Senussi during the 2011 revolution, and in March of 2012, Senussi was arrested in Mauritania As for the case of Saif al-Islam Gaddafi, the pre-trial chamber of the Criminal Court concluded The international community indicated that the ongoing problems in Libya undermined the ability of the courts to carry out real procedures against him, but the court considered itself concerned with this case, but that did not constitute the reason that decided not to accept the case, but rather the lack of clear information provided by the Libyan authorities about the case under consideration against Gaddafi. The main goal was to brake the judges of the International Criminal Court from taking note of all the details of the national case[47].

Therefore, the International Criminal Court is no longer considering only one case related to Libya, namely the case of Saif al-Islam Gaddafi, as he was tried in absentia for war crimes and was sentenced to death in July 2015[48].

F02: Excluding Global Jurisdiction and relying on the Condition of Regionalism and Nationality

This is done through two cases:

First - the case of reliance on the condition of territoriality:

The principle of universal criminal jurisdiction means the need to recognize the criminal legislation of the state by extending its jurisdiction and the jurisdiction of the criminal judiciary over the most serious international crimes, regardless of the nationality of the perpetrators or wherever they were committed in the world, as long as they are the subject of concern and disapproval of the international community. However, granting states such jurisdiction to themselves is a cause for frequent jurisdictional conflicts between them; in addition to that it would be a stumbling block before the jurisdiction of any international court with jurisdiction over the same serious crimes. There is no doubt that one of these courts is the International Criminal Court, so this issue was the subject of various discussions during The Rome Conference, which resulted in Article 12 of the Statute[49]. And this criterion of regionalism is derived from criminal laws that often recognize the territorial jurisdiction of its courts, and this is what Algerian law adopted in the Penal Code and the Code of Criminal Procedure[50], and this condition was severely criticized by the United States because it allows the court to exercise its jurisdiction in the face of citizens of a state that is not party and from it exposing its members of its armed forces deployed abroad to the trial before the International Criminal Court.

Secondly - the case of reliance on the nationality condition:

Which is the second criterion adopted by the International Criminal Court for its jurisdiction, according to Article 12, paragraph 2 - the court can exercise its jurisdiction if the country of which the person accused of the crime is a party to the Statute.

And this nationality criterion It also derives from the criminal laws that recognize it, whereby national courts are competent to consider crimes committed by their nationals even if they were committed outside their territory, and this is in accordance with the principle of the personality of laws[51], but the majority of countries did not agree that the criterion of nationality be the only criterion for the court's exercise of its jurisdiction. Because, it will severely narrow the jurisdiction of the court and paralyze its work. It also leads to an unacceptable situation, whereby nationals of a state party to the Convention are tried for crimes committed in that state, while persons who are not considered nationals of that state and who commit the same crimes in its

territory. That state, they are not being prosecuted[52].

The second requirement: the exercise of complementary jurisdiction

Since the establishment of the International Criminal Court and its relationship with the Security Council, it raises great controversy and fierce discussions by virtue of the fact that the court was given an independent international legal personality[53] that exercises its functions within the limits of its competence[54], because the intervention of the Security Council may turn it into any political tool and empty it from its legal system and Thus, the court is invited to exercise its jurisdiction over the crimes that fall within its jurisdiction through:

F01: Referring a case to the court:

Article 13 of the Statute of the International Criminal Court sets out the rules related to the court's exercise of its jurisdiction, as well as those related to the parties that can refer a case of those Within the jurisdiction of the court in accordance with the text of Article 5 of the Statute of the International Criminal Court for consideration, and these bodies are[55]:

- The state party to the International Criminal Court.

- The Security Council.

- The Prosecutor General

First: The Judicial Body of the International Criminal Court:

Referring to the provisions of Article 34 of the Statute of the International Criminal Court, it is clear that its judicial body consists of the Presidency and the Chambers of the Court of Appeal, First Instance and Pre-Trial, where the Presidency of the International Criminal Court is the highest judicial body in it and it consists of a president and two deputies. And each of them is elected to his position by an absolute majority of the number of judges of the court, and the term of assuming these positions by their incumbents is three years[56], renewable once, bearing in mind that the total number of judges of the court is (18) eighteen judges. (Trial Chambers, Pre-Trial Chambers, and Appeals Chamber), in addition to any other tasks assigned by the Statute and the Rules of Procedure and Evidence in the light of its provisions to the Presidency by virtue of a special text[57].

Second : State presenting a case:

As stated in Article 13, any state member can present a case to the International Criminal Court, and this is according to what was stated in the text of Article 14, the first paragraph, where it stated as follows: "A State Party may refer to the Prosecutor any case in which one or more crimes within the jurisdiction of the Court appear to have been committed and request the Prosecutor to investigate the case with a view to deciding whether one or more specific persons are to be charged with the commission of those crimes[58]."

In our study, it is clear that there are two ways for countries to accept the court's jurisdiction, one of which is related to the state parties and the automatic jurisdiction of the court, and the other is related to non-party states[59]. An example of this is what happened in the recent Russian-Ukrainian war. On February 25, 2022, the day after the start of the Russian invasion of Ukraine in 2022, the prosecutor of the International Criminal Court stated[60] that the ICC "can exercise its jurisdiction and investigate any act of genocide, crimes against humanity or war crimes committed inside Ukraine". He also stated on February 28 that he intended to conduct a full ICC investigation and that he had asked his team "to explore all opportunities Save the evidence." He stated that it would be faster to open the investigation formally if a member state of the International Criminal Court referred the case for investigation, under Article 13 (a) of the Rome Statute, and he also stated that he had received

referrals from 39 countries[61], which enabled him to open an investigation under Article 14 of the Rome Statute, and the Prosecutor stated that his office had already identified potential cases that could be admissible[62].

On March 1 or 2, 2022, the situation in Ukraine was transferred to Pre-Trial Chamber II of the International Criminal Court[63].

Russia and Ukraine are not members in the international criminal court[64], still Ukraine accepted to be trailed by its juridical power after Russia granted her Crimea in 2014, and under its powers, the court can prosecute individuals and try them for genocide, crimes against humanity and war crimes. In 2017, the powers of the International Criminal Court also included deciding the crime of aggression[65].

01- The automatic jurisdiction of the court: it is the ability to exercise its jurisdiction regarding the crimes mentioned in the Statute, with regard to any case pertaining to a state party without the need for additional approval or acceptance by the state, so the state requests the public prosecutor to carry out investigation procedures in this case with the aim of reaching what If a specific person or more should be charged with committing this crime or those crimes, and the concerned state shall, in this case, explain to the public prosecutor - to the best of its ability - with the need to submit all documents and papers in its possession that it deems supportive. What was stated in this request[66].

02- The special jurisdiction of the court: States that are not parties to the Statute of the International Criminal Court can accept the exercise of their jurisdiction in relation to the crime in question only, and this is according to a declaration filed with the court's registry, and this possibility came or what is called the special jurisdiction only With regard to a crime under investigation, the court is not granted general jurisdiction or competence to consider crimes that may be committed in the future in the territory or by nationals of a state not party to the Rome Statute[67].

Article 12 of the Rome Statute provides for the special jurisdiction of the court.

Third: Referral of a case by the Security Council:

Article 13, paragraph B of the Statute, gave the Security Council the authority to refer a case to the Prosecutor of the International Criminal Court, if the Council found that one or more crimes within the jurisdiction of the Court had been committed, and The authority of the Security Council finds its basis in the powers it occurs in accordance with Chapter VII of the United Nations Charter[68]. fulfil his responsibilities and refer the case to the public prosecutor of the court, if he deems that he would take this measure to contribute to maintaining peace and security and restoring them to their share[69].

P 02: Moving the Public Prosecutor to investigate himself:

The possibility of the public prosecutor to move the criminal case directly regarding one of the crimes involved in the jurisdiction of the court without stopping to refer it by one of the parties to the parties to two ways:

First- The authority to start the investigation on its own:

This authority was given to the public prosecutor according to the 13th period of paragraph C of the statute, where he is entitled to conduct an investigation regarding one of the crimes involved in the jurisdiction of the court, and he is conducting investigations in this case on its own construction On the information he receives regarding any of these crimes[70].

That is, under this authority, the public prosecutor may move the criminal lawsuit on his own against the person or persons accused of committing any of the crimes stipulated in

Article 5 of the statute, without the need for there to be a referral of this case by a member state, or the Security Council[71].

Second - Pre-Trial Chamber oversight:

The fear of some countries, including the United States of America, of granting the Public Prosecutor the authority to initiate investigation or prosecution on his own without waiting for a referral from a state or from the Security Council could pose a threat to the sovereignty of states, which led states to place restrictions or Guarantees prevent the Prosecutor from abusing his authority, and this is what led to granting the Pre-Trial Chamber important oversight powers. Any investigation led by the public prosecutor must be approved by a council consisted of three judges[72], sayingThere is a reasonable basis for initiating an investigation and that the case appears to fall within the jurisdiction of the Court, without prejudice to what the Court will later decide on the jurisdiction and admissibility of the case[73].

In Article 53, paragraph 2, at the request of the referring State or of the Security Council, the Pre-Trial Chamber may additionally and on its own initiative review the Prosecutor's decision not to initiate any proceeding only if that decision is based on the interest of justice[74].

Conclusion:

When the International Criminal Court was established nearly two decades ago at the International Conference in Rome, there was an explicit acknowledgment that impunity is unacceptable in the most serious crimes committed in the world. Therefore, the principle of integration is the most prominent characteristic of the Statute of the International Criminal Court, being It aims to achieve the functional unity between the national and the international judiciary. The jurisdiction of the court does not take place in accordance with this principle unless the national judiciary is weak and unable to exercise its jurisdiction or was dishonest and other reasons that prevent it from exercising its jurisdiction naturally, and accordingly we concluded In the first place, national courts have to consider grave violations, while the International Criminal Court is considered complementary to those national jurisdictions. It has become clear, through the cases that the International Criminal Court has considered to date, that integration is one of the most important concepts. - if not the most important concept - in the Rome Statute and in the global fight to end impunity for serious crimes and through our research We concluded that the adoption of this complementary system is due to at least four reasons:

1- It protects the accused in the event that he is prosecuted in the national courts,

2- It respects national sovereignty in terms of exercising national criminal jurisdiction,

3- It leads to achieving better and better efficiency, As the International Criminal Court cannot consider all cases of serious crimes.

4- It places the burden on states to carry out their duties under both national and international laws, conducting the necessary investigations and deciding on alleged serious crimes.

We also concluded a set of recommendations that This would make the principle prove its effectiveness by taking some steps that do not necessarily require the expenditure of large sums, namely:

1- Establishing appropriate and appropriate investigation teams

2- Drawing maps showing the alleged crimes

3- Choosing the right cases to conduct investigations

4 - Communicate effectively with victims and the public with the intention of gaining their trust without prejudice to the presumption of innocence of the accused.

5- Conducting targeted, effective and daring investigations.

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