

# Possibilities and Perspectives of International Criminal Law Today

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XXXVII. International Post Graduate Course on Victimology, Victim  
Assistance and Criminal Justice



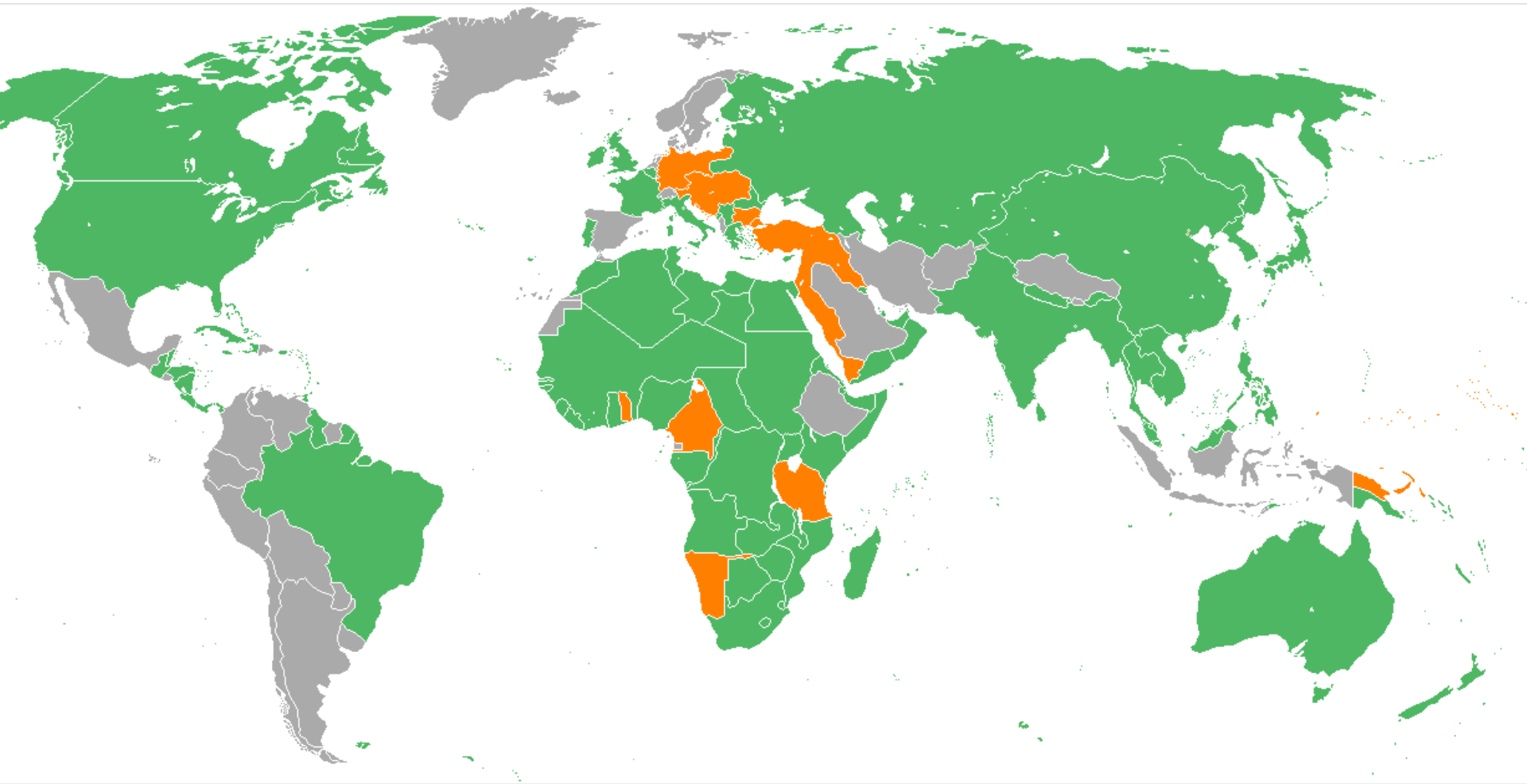
# Overview

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- Introduction to the history of international humanitarian law
- What are wars?
- Dynamics of the punishment of war crimes
- Where do we stand today?
- Current issues

# The Failure of International Humanitarian Law

## World War I





# The Failure of International Humanitarian Law

## World War I

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*Hindenburg*



*Ludendorff*



# The Failure of International Humanitarian Law

## World War I

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### Treaty of Versailles

#### Penalties

Art. 227

The Allied and Associated Powers publicly arraign William II of Hohenzollern, formerly German Emperor, for a supreme offence **against international morality** and the sanctity of treaties.

A **special tribunal** will be constituted to try the accused, thereby assuring him the guarantees essential to the right of defense. It will be composed of five judges, one appointed by each of the following Powers: namely, the United States of America, Great Britain, France, Italy and Japan.

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# The Failure of International Humanitarian Law

## World War I

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**Supream Court - Reichsgericht - Leipzig**



# International Humanitarian Law

## World War II

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**Declaration of Moscow 1943:**

**Criminal prosecution off  
Major War Criminals**

**Nuremberg and Tokyo**

**And**

**all others**

**the countries where the  
war crimes were  
committed**



Josef Stalin - Franklin D. Roosevelt - Winston Churchill

# International Criminal Law Emerges

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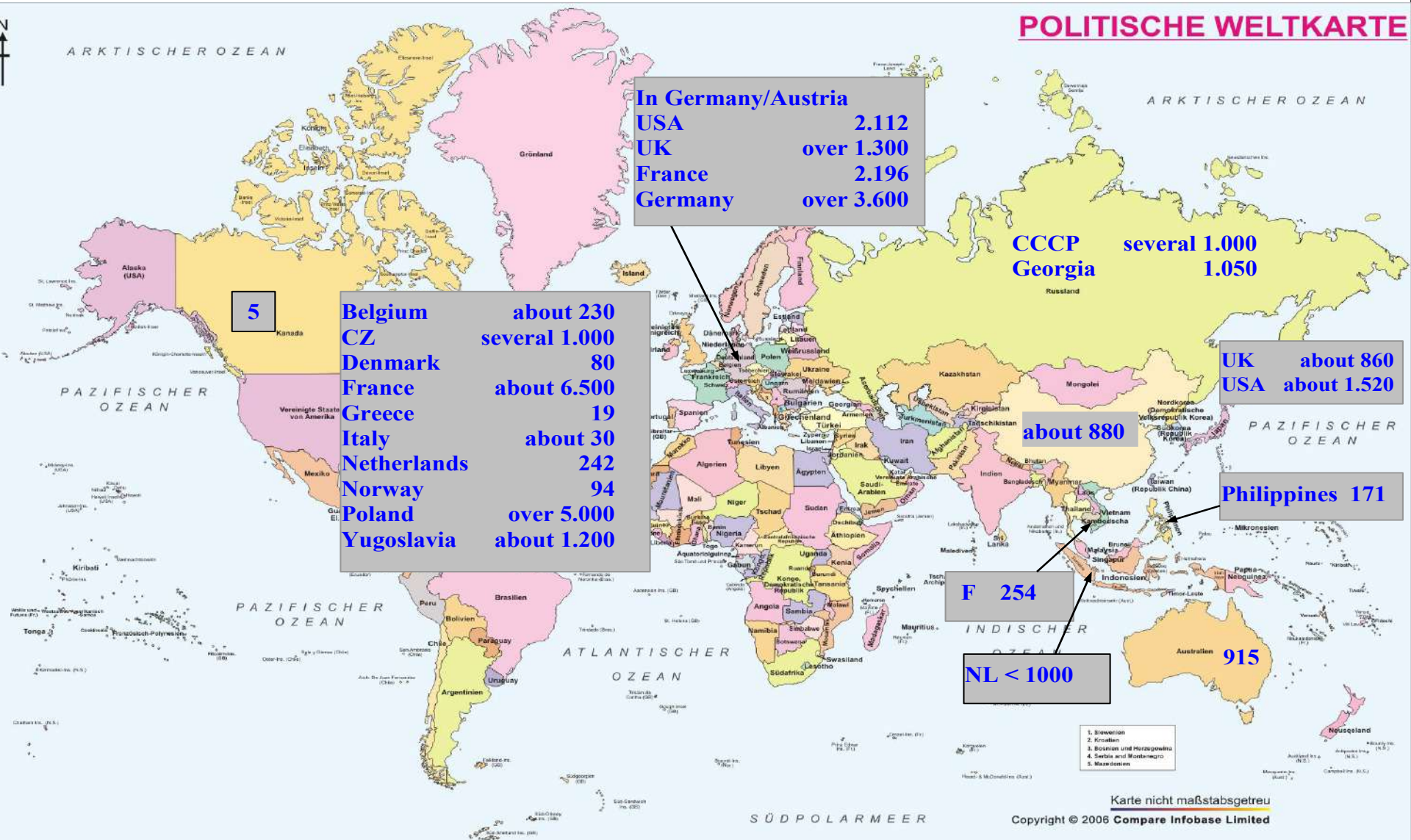


*International Military Tribunal  
Nuremberg*



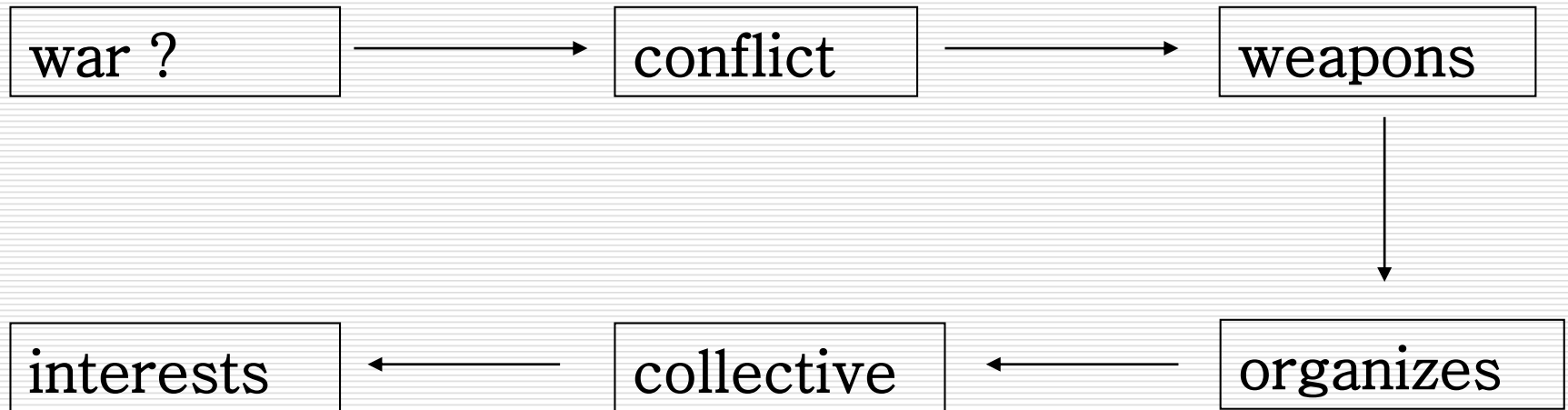


# National prosecution of War Crimes after WWII



# War Crimes

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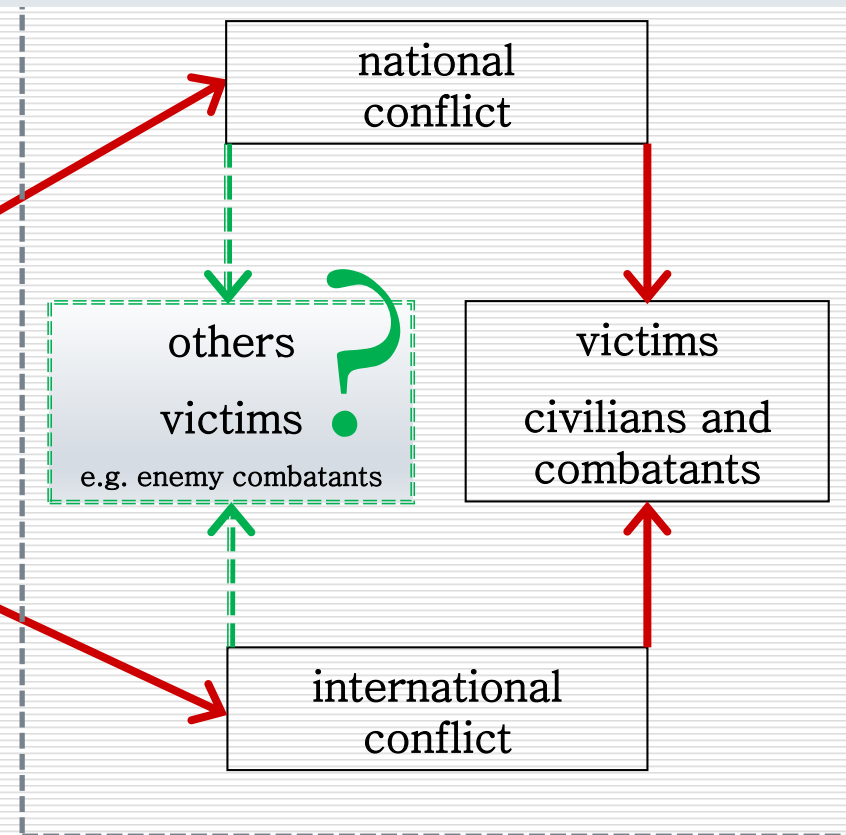


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conflict resolution through combat

# Systematics of War Crimes

## War Crimes





# War Crimes Types

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between 2 or more states



the war Russia against Ukraine

Coalition War



several states unite in the fight

Partisan and Guerrilla warfare



struggle between population and occupiers

Independence War



residents fighting for a state

Civil War



groups within a State fighting each other

Armed Conflict



sporadic, random - not necessarily planned -  
demarcation problems !

# International Tribunal



ICTY/R



Sub-Organisation of the UN-SC, established  
S/RES/827(1993) resp. S/RES/955 (1994)

Section VII UN-Charta

Jurisdiction limited in time and place

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Jurisdiction over **national states** has priority

# International Tribunal

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"Hybrid" (mixed national/international)  
criminal courts  
limited in time and place

SCSL (Sierra Leone)

SPSC (East-Timor)

ECCC (Cambodia)

Special Tribunal for Lebanon

UNMIK (Kosovo)

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# International Tribunal

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## International Criminal Court – ICC (Permanent)

Created by international treaty (Rome Statute)

Jurisdiction theoretically unlimited in terms  
of location, unlimited in terms of time  
since  
July 1, 2002

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# International Criminal Court (ICC)

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**Independent international organization  
not an organ of the UN**

Rom Statut

adopted in 1998,  
entered into force on July 1, 2002

**4 core crimes**

**Genocide**

**Crimes against Humanity**

**War Crimes**

**Crime of Aggression (from 2018 on)**





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# Germany?

## VStGB = international criminal code

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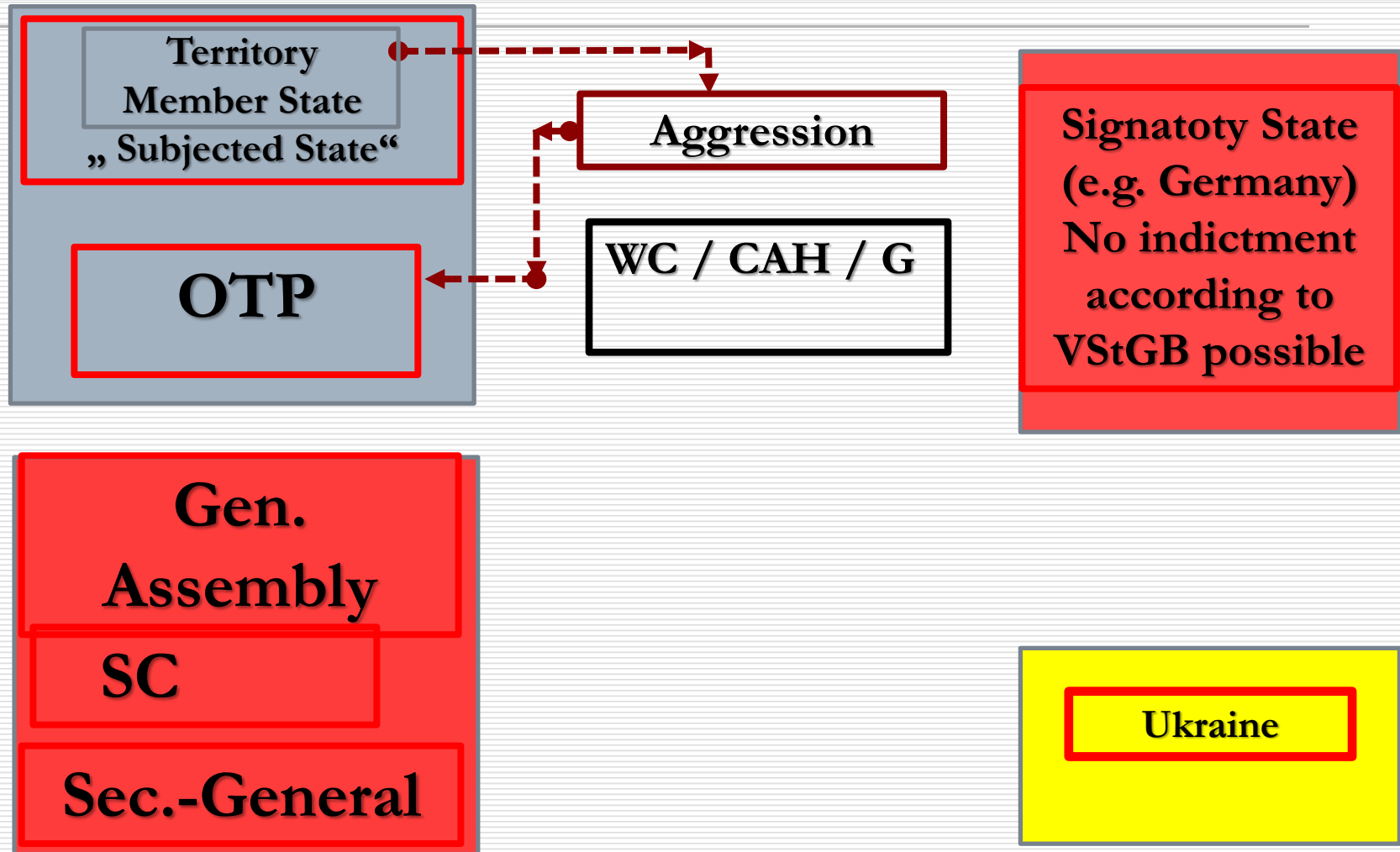
- ❑ Sec. 13 Act of aggression = use of armed force by a State directed against the sovereignty, territorial integrity or political independence of a State or otherwise inconsistent with the Charter of the United Nations. Only head of a State!
- ❑ Life imprisonment
- ❑ But:  
Sec. 1: VStGB:

**For acts under Section 13 committed abroad, this act shall apply irrespective of the law of the place of the act if the perpetrator is German or the act is directed against the Federal Republic of Germany**

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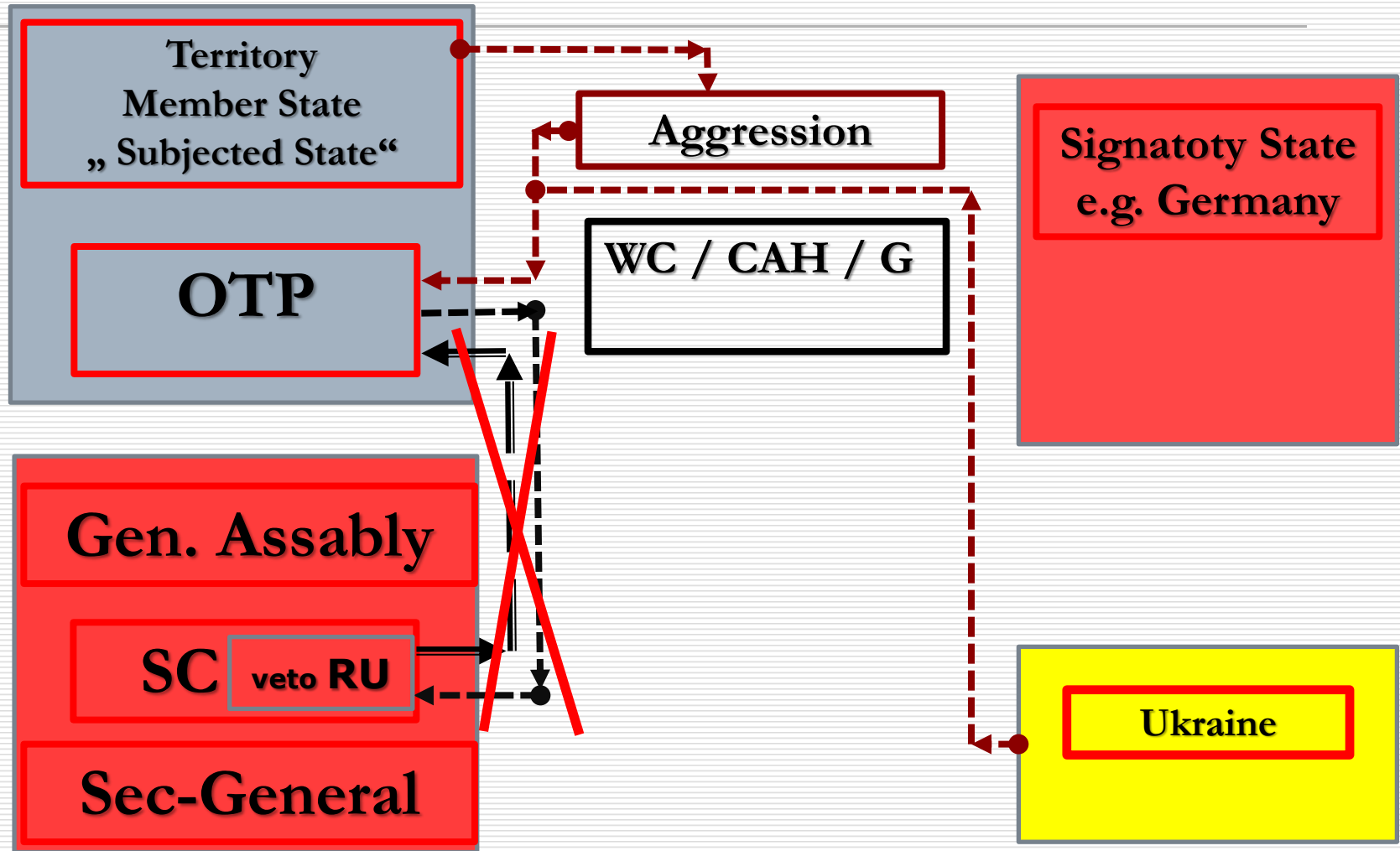
# The war of aggression committed by an ICC signatory state



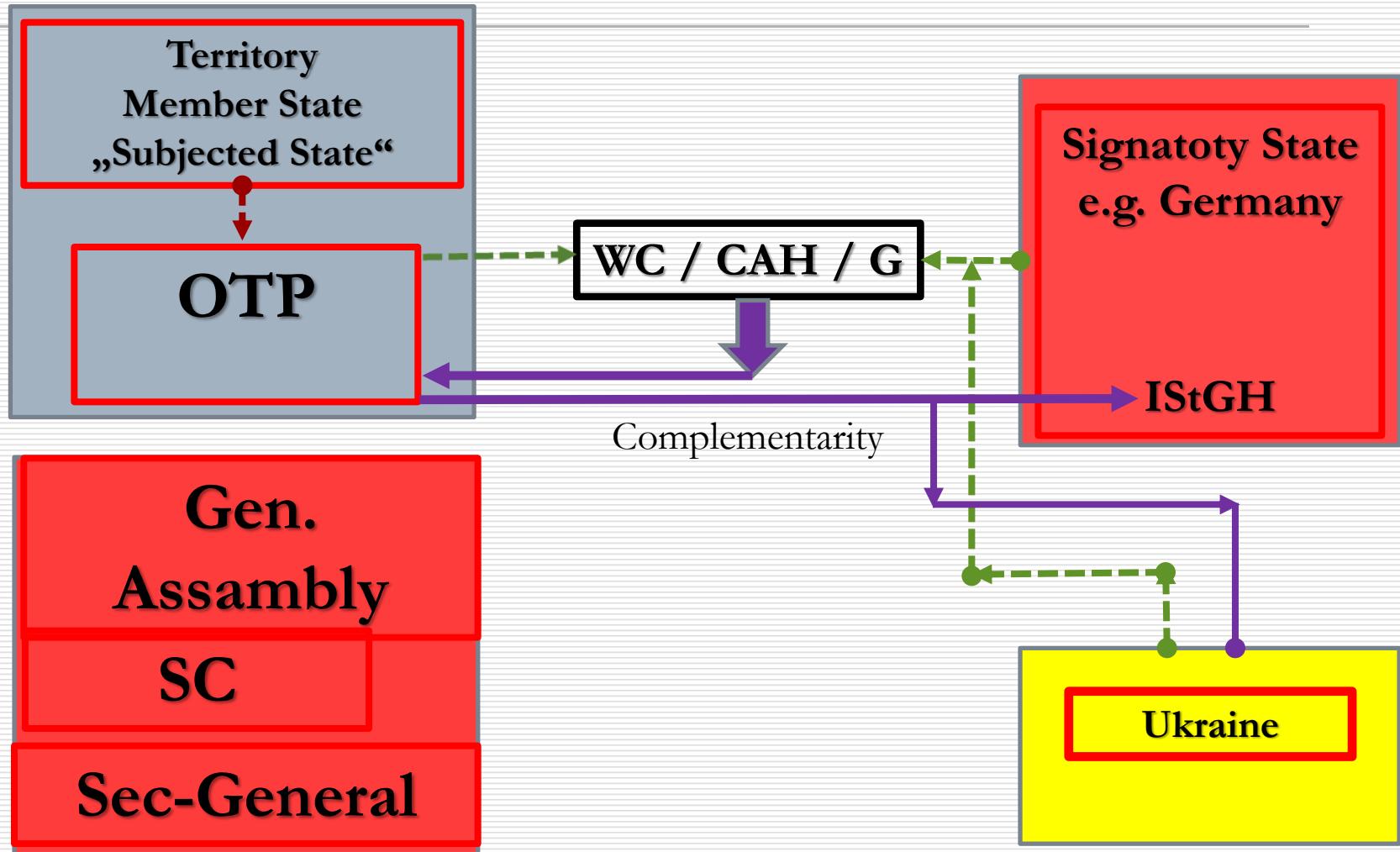
Russia is not a Member State



# The war of aggression is committed by an **non** ICC signatory state



# War crimes among others are committed by Russia in Ukraine





# War of aggression and war crimes

## Special (ad hoc) Tribunal

