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TESI DI DOTTORATO IN DISCIPLINE GIURIDICHE INTERNAZIONALISTICHE ED EUROPEE

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TITOLO DELLA TESI: Consent and jurisdiction in international criminal law: legality, legitimacy and limits of the exercise of international criminal jurisdiction over nationals of non-consenting states

ABSTRACT DELLA TESI:

Historically, the question of the legal basis for the exercise of international criminal jurisdiction over individuals who are nationals of non-consenting states has been central to the discussions surrounding international criminal justice, especially during the long process that has led to the adoption of the statute of the international criminal court (ICC) and the related choice on how its jurisdiction should be activated. Nevertheless, this area has remained remarkably under-theorised. In particular, the complex relationship between jurisdiction over international crimes, state consent, and the applicability of immunities continues to generate unresolved legal tensions that affect both the legality and the legitimacy of the icc's activities.

For example, these tensions have come into focus in recent situations pending before the ICC, most notably those of Palestine and Ukraine, where senior officials of states not parties to the Rome Statute have been placed under investigation for their alleged involvement in the Commission of International Crimes. in these cases, the lack of state consent becomes even more central, given the political impossibility of resorting to other means such as a security council referral.

Against this backdrop, the project aims to analyse the conditions, foundations, and limitations of the exercise of jurisdictional powers by international tribunals over nationals of non-

consenting states, with particular attention to individuals qualifying as state organs and benefiting, under international law, from personal or functional immunities. to do so, the research will explore three deeply interconnected areas: jurisdiction, consent, and immunities.