



Plenary sitting

B9-0282/2022

13.5.2022

MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission

pursuant to Rule 132(2) of the Rules of Procedure

on the fight against impunity for war crimes in Ukraine
(2022/2655(RSP))

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on behalf of the Renew Group

European Parliament resolution on the fight against impunity for war crimes in Ukraine (2022/2655(RSP))

The European Parliament,

- having regard to its resolution of 11 March 2021 on the Syrian conflict – 10 years after the uprising¹,
- having regard to its previous resolutions on Russia and Ukraine, and in particular that of 1 March 2022 on the Russian aggression against Ukraine², and that of 7 April 2022 on the conclusions of the European Council meeting of 24-25 March 2022, including the latest developments of the war against Ukraine and the EU sanctions against Russia and their implementation³,
- having regard to its resolution of 5 May 2022 on the impact of the war against Ukraine on women⁴⁵,
- having regard to its resolution of 17 July 2014 on the crime of aggression⁶,
- having regard to the statement by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) of 15 March 2022 on the fourth package of restrictive measures, in which the VP/HR acknowledged that atrocities amounting to war crimes had taken place in Ukraine,
- having regard to the Rome Statute of the International Criminal Court of 1998 and the Kampala Amendments of 2010 on the Crime of Aggression,
- having regard to the report from the Organization for Security and Co-operation in Europe (OSCE) of 13 April 2022 on the violations of international humanitarian and human rights law, war crimes, and crimes against humanity committed in Ukraine since 24 February 2022,
- having regard to the Nuremberg principles developed by the International Law Commission of the United Nations, which determine what constitutes a war crime,
- having regard to the visit of President Metsola to Ukraine on 1 April 2022 and her statement on the international war crimes being committed in Ukraine,
- having regard to Council Decision (CFSP) 2022/638 of 13 April 2022 amending Decision 2014/486/CFSP on the European Union Advisory Mission for Civilian

¹ OJ C 474, 24.11.2021, p. 130.

² OJ C 125, 18.3.2022, p. 2.

³ Texts adopted, P9_TA(2022)0121.

⁴ Texts adopted, P9_TA(2022)0206.

⁵ https://www.europarl.europa.eu/doceo/document/TA-9-2022-0206_EN.html

⁶ OJ C 224, 21.6.2016, p. 31.

Security Sector Reform Ukraine (EUAM Ukraine)⁷, which amended the mandate of EUAM Ukraine to provide support to the Ukrainian authorities and to facilitate the investigation and prosecution of any international crimes committed in the context of the Russian aggression against Ukraine,

- having regard to the Commission’s proposal to amend Regulation (EU) 2018/1727 of the European Parliament and the Council, as regards the collection, preservation and analysis of evidence relating to genocide, crimes against humanity and war crimes at Eurojust (COM(2022)0187),
 - having regard to UN Security Council Resolutions 1820 on sexual violence as a weapon of war and 1888 establishing the Special Representative on sexual violence in conflict,
 - having regard to UN Human Rights Council Resolution A/HRC/49/1 of 4 March 2022 on the situation of human rights in Ukraine stemming from the Russian aggression, in which it established an independent international commission of inquiry to investigate all alleged violations of human rights in the context of the Russian Federation’s aggression against Ukraine,
 - having regard to the definition of ‘rape’ during times of war established in 1998 by the International Criminal Tribunals for Rwanda and the International Criminal Tribunals for Yugoslavia,
 - having regard to the policy paper on sexual and gender-based crimes published by the Office of the Prosecutor of the International Criminal Court in June 2014,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas since 24 February 2022, when Russia started a new unprovoked, unjustified and illegal wave of military aggression and war in Ukraine, Russian military forces have been conducting indiscriminate attacks against civilians, including abductions, extrajudicial executions and torture in both invaded and occupied areas of Ukraine;
- B. whereas Russia’s aggressive war on Ukraine, which has given rise to a wave of war crimes and crimes against humanity, is an act of state terrorism against another country and its citizens;
- C. whereas the Rome Statute defines the crime of aggression as ‘the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations’;
- D. whereas the invasion of Ukraine may constitute a crime of aggression as defined in Article 8a of the Rome Statute;
- E. whereas the 2016 report of the International Criminal Court (ICC) on preliminary examination activities ruled that the situation within the territory of Crimea and

⁷ OJ L 117, 19.4.2022, p. 38.

Sevastopol factually amounted to an on-going state of occupation; whereas following the ICC's ruling, Russia withdrew its signature to the Rome Statute;

- F. whereas specialised reports have documented several thousands of cases of Russian military forces deliberately targeting women, men, and children, with official records indicating numerous cases of sexual violence, for example the case of the Russian soldier Alexei Bychkov who raped a two-year-old child in the Kharkiv region; whereas Russian soldiers use sexual violence as a form of torture in order to obtain confessions through rape, forced exposure and threats of sexual violence against children, women and men or their relatives; whereas according to the UN, one in three women and one in four men have experienced or witnessed such violence;
- G. whereas Russian forces have multiple times prevented the establishment of humanitarian corridors and thus blocked or obstructed the evacuation of the civilian population from the besieged territories;
- H. whereas Russia has been forcibly displacing hundreds of thousands of Ukrainian citizens, among them more than 200 000 children, from the occupied territories and transporting them to established camps on the territory of the Russian Federation;
- I. whereas the civilian population of the occupied Donetsk and Luhansk regions and Crimea are being forcibly recruited en masse and sent into combat against Ukraine's armed forces;
- J. whereas in the first three months of the war, the Ukrainian prosecutor general's office has opened more than 9 300 investigations into alleged war crimes and identified hundreds of suspects from Russia;
- K. whereas Russian forces have been detaining, abducting, kidnapping, targeting and killing journalists and media workers reporting from Ukraine; whereas journalists and media workers are protected under international humanitarian law by Article 79 of Additional Protocol I to the Geneva Conventions;
- L. whereas according to the Council of Europe platform for the protection of journalism and safety of journalists, at least 10 Ukrainian and international media workers have been killed and many others wounded;
- M. whereas Russian troops have been implicated in the looting of civilian property including food, clothing, household appliances, firewood and large amounts of grain, as well as in the battering of civilian infrastructures including those catering to the needs of vulnerable social groups, residential buildings, schools and hospitals;
- N. whereas the armed forces of the Russian Federation have been systematically taking away pieces of art, artefacts, and other objects of high cultural value from museums and exhibitions in the occupied territories, particularly from Mariupol and Melitopol, and in doing so, destroying the cultural heritage of Ukraine;
- O. whereas on 12 April 2022, Commissioner Reynders sent a letter to EU justice ministers to call for further coordination at political level on EU efforts to investigate war crimes and crimes against humanity committed in Ukraine;

- P. whereas on 15 April 2022, more than 600 bodies were found in Bucha alone after the Russian forces withdrew; whereas official records have documented enforced disappearances and torture as well as details of 16 apparently unlawful killings in Bucha, including nine summary executions and seven indiscriminate killings of civilians, in addition to the shooting in the shoulder of a nine-year-old girl who was trying to run away from the Russian forces;
- Q. whereas according to the mayor of Irpin, 50 % of the city's infrastructure, including critical infrastructure, had been destroyed as of 30 April 2022; whereas approximately 200-300 civilians and up to 50 Ukrainian soldiers were killed in the city; whereas after the killings, Russian soldiers crushed some of the dead bodies with tanks and rolled them into the asphalt;
- R. whereas in many cases, Russian military forces have fired at and destroyed civilian and public buildings and infrastructure;
- S. whereas some Member States (Estonia and Lithuania) have classified the war crimes in Ukraine as an act of genocide;
- T. whereas, according to several sources, Russia's mobile crematoriums, which its military use to clean up traces of their crimes, completed their 'cleansing' of the Livoberezhsky district of Mariupol on 12 April 2022; whereas more than 10 000 civilians have been killed;
- U. whereas atrocities similar to the cases mentioned above have occurred in many Ukrainian towns and villages invaded and occupied by Russia, with the real extent of war crimes likely to be much larger than documented;
- V. whereas governmental and international judicial bodies have initiated a series of accountability efforts, including the opening of a formal investigation by the ICC, as well as criminal investigations under the principle of universal jurisdiction by France, Germany, Lithuania, and Sweden; whereas coordination between the investigations of the ICC and those of governmental bodies is essential to bring justice swiftly; whereas national authorities, including those of the Netherlands, have seconded forensic staff to the ICC to directly support its efforts or are in the process of doing so;
- W. whereas on 25 April 2022, a joint investigation team was set up by the judicial authorities of Lithuania, Poland, and Ukraine, with the participation of the prosecutor of the ICC, which will deal with the documentation and collection of evidence to investigate war crimes in Ukraine; whereas this is the first time the ICC has participated in a joint investigation team;
- X. whereas the UN Security Council is paralysed over the situation in Ukraine owing to Russia's ability to veto any substantive action; whereas the UN did not react, either, to the bombing of Kyiv during an official visit by its secretary general on 27 April 2022;
- Y. whereas Ukraine's Office of the Ombudsman reported, in the first half of April 2022 alone, more than 400 complaints by Ukrainian citizens about cases of sexual violence

by the Russian aggressors⁸, including accounts of rape against children, young women, elderly women, and men⁹;

- Z. whereas rape as a war crime is the hardest crime to document in a manner that can be brought to court and will stand the test of trial; whereas victims of sexual war crimes may face multiple risks of discrimination and stigma, in addition to physical harm; whereas victims and witnesses of sexual and gender-based crimes may also be witnesses to additional crimes;
- AA. whereas, given the nature of the evidence, the sensitivity of the topic and the long-term trauma of the victims of sexual violence, time is of crucial importance in collecting evidence and testimony and in providing medical and psychological assistance to the victims of sexual violence;
- AB. whereas the Belarusian regime has enabled Russia to wage and conduct its military aggression against Ukraine and therefore shares responsibility for Russia's war crimes;
1. Strongly condemns the Russian aggression in Ukraine and the grave violations of human rights and the laws of war that have been committed and continue to be committed by Russian troops, all of which have thus far gone unprosecuted and unpunished by Russia's military authorities;
 2. Demands that the Russian Federation immediately terminate all military activities in Ukraine, unconditionally withdraw all military and paramilitary forces and military equipment from the entire internationally recognised territory of Ukraine, and fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognised borders;
 3. Underlines that all parties to the Russian war against Ukraine must abide by international humanitarian law and the laws of war, including the Geneva Conventions of 1949, the First Additional Protocol to the Geneva Conventions, and customary international law;
 4. Stresses the grave risk that evidence related to war crimes is destroyed and cannot be collected and safely stored for the purpose of the investigations on war crimes in Ukraine; considers that swift action is of crucial importance for taking all necessary measures to make sure that those who have committed human rights violations and war crimes in Ukraine are held accountable;
 5. Recalls that Ukrainian authorities continue to lack access to territories illegally occupied by Russia where Russian forces are alleged to have perpetrated further war crimes against the civilian population;
 6. Calls on the Member States to offer direct support to the efforts of the ICC to investigate war crimes, both through financial means and by seconding (digital) forensic

⁸ <https://www.ukrinform.ua/rubric-society/3468477-na-timcasovo-zahopenih-teritoriah-zagarbniki-zgvaltuvani-400-ditej-i-doroslih-denisova.html>

⁹ <https://www.ukrinform.ua/rubric-society/3464623-diti-pensioneri-coloviki-denisova-rozpovila-pro-kricusi-vipadki-gvaltuvan-rasistami-ukrainciv.html>

experts and military analysts;

7. Calls on the Commission to explore the possibility of establishing an ad hoc tribunal, supported by the EU and like-minded partners, in order to prosecute the crime of aggression;
8. Underlines that the rights of victims of crimes under international law must be at the forefront of investigations and prosecutions, and that victims must be able to fully realise their rights to truth, justice, and reparations;
9. Strongly condemns the deliberate targeting, killing, abduction, detention and torture of journalists and media professionals reporting from the front line in Ukraine; recalls that such actions against journalists and media professionals wearing clear markings may be qualified as war crimes; calls on the Commission to continue to assist journalists and media professionals in Ukraine by providing them with the protection equipment and medical supplies they need on the ground;
10. Welcomes the setting up of the joint investigation team (JIT) by Lithuania, Poland and Ukraine, coordinated by the European Union Agency for Criminal Justice Cooperation (Eurojust), in which the Office of the Prosecutor of the ICC will be a first-time participant, aiming to facilitate investigations and prosecutions in the participating states as well as those that could be taken forward before the ICC;
11. Encourages Member States to join the JIT, which channels investigations on war crimes committed in Ukraine into a close collaborative partnership that will enable efficient, rapid and real-time coordination and exchange of information between the parties to the JIT;
12. Recognises in this regard the increasing role of Eurojust in coordinating joint investigations into core international crimes and supporting the JIT partners with operational, analytical, legal and financial assistance; acknowledges the resulting budgetary implications;
13. Welcomes the Commission's proposal to reinforce the mandate of Eurojust to include the collection, preservation and sharing of evidence of war crimes, including satellite images, photographs, videos, audio recordings, DNA profiles and fingerprints; stresses the importance of the cooperation between Eurojust and Europol, in accordance with their respective mandates, in processing, analysing and sharing evidence with the relevant national and international authorities; urges the Member States to support the agency in helping to ensure accountability for the crimes committed in Ukraine; commends the work of the JIT into alleged core international crimes and calls on the Member States to continue to work and cooperate, through their Prosecutors General, with the Office of the Prosecutor of the ICC and the Ukrainian authorities, ensuring positive complementarity in their approach; calls on the Commission and Eurojust, given the budgetary implications of this new mandate, estimated at a further EUR 15.705 million and 16 additional posts, to prepare all actions to make sure all posts are filled as soon as possible following the entry into force of the proposal; stresses the importance, furthermore, of allocating posts with an appropriate grading to fulfil the tasks envisaged under the amended mandate;

14. Calls on the EU and its Member States to continue their diplomatic and political support to the ICC, as well as to provide proper financial resources to enable it to fulfil the tasks within its mandate; underlines the EU's leading role in the fight against impunity, including its support for the ICC as the only international institution that has the ability to prosecute some of the world's most horrific crimes and to defend victims that have no other recourse;
15. Regrets the limited progress on the effective prosecution of sexual and gender-based crimes within the ICC; is of the opinion that the cases of the victims of the illegal invasion of Ukraine could set a precedent in this respect; calls on the EU and its Member States to support gender mainstreaming in any ongoing and future investigations;
16. Encourages EU institutions and agencies involved in evidence gathering and investigating war crimes in Ukraine to work closely together with Ukraine's Prosecutor General as well as Ukrainian state and civil society organisations dedicated to fighting impunity for war crimes committed in Ukraine;
17. Welcomes the efforts of individual Member States to send special crime investigation teams to Ukraine;
18. Underlines that Parliament will stay fully involved in the fight for international justice for the victims of the crimes committed; calls on Eurojust to fully inform Parliament in due time of the execution of its abovementioned new mandate on war crimes perpetrated by Russia in Ukraine, and calls for the establishment of a temporary combined sub-committee of the Committee on Foreign Affairs and the Committee on Civil Liberties, Justice and Home Affairs, to serve as the contact point for sharing this information; advocates for Parliament to be closely involved in Eurojust's revised mandate on war crimes perpetrated in Ukraine by holding public hearings and by collecting, documenting and publishing evidence in a so-called 'white book';
19. Calls on the Commission to work closely together with the ICC and Eurojust under its revised mandate on the documentation of wartime rape, abuse and or other forms of sexual violence in Ukraine, including by collecting statistical or pattern-related evidence from relevant experts and medical and pharmaceutical records, and by searching for and documenting accounts of war rape in Ukraine that appear online in the press and on social media and which can lead investigators to the victims of rape; calls for this work to be complemented by similar efforts in refugee camps and, whenever possible, on the ground in Ukraine;
20. Notes that there are many NGOs in Ukrainian territory putting effort into documenting war crimes, including mass rapes during war time, and that their efforts need to be supported and consolidated;
21. Calls on the EU Member States to consolidate procedural protection for witnesses and, particularly, victims of sexual violence, in order to avoid retraumatisation and inter alia, to facilitate the collection of testimonies;
22. Welcomes the adoption by the Verkhovna Rada of Draft Law #7304, which provides for the admission of the ICC to work inside Ukraine and calls on the Ukrainian

authorities to support the accountability efforts by urgently ratifying the Rome Statute of the ICC and formally becoming a member of the court;

23. Demands that the Russian armed forces uphold the fundamental principles of the laws of war and immediately put an end to the killings and indiscriminate attacks in Ukraine in the areas that they occupy;
24. Calls on the Russian authorities to put an immediate end to the forcible displacement of Ukrainian citizens; demands that Ukrainian citizens forcibly displaced to the territory of the Russian Federation be permitted to return safely to Ukraine; insists that, meanwhile, they be permitted to establish contact with their relatives in Ukraine or elsewhere and that they be provided with the necessary supplies and services, including education for children and medical care for those in need; calls on the Russian authorities to permit the International Committee of the Red Cross (ICRC) to facilitate communication between Ukrainian citizens forcibly displaced to Russia and their relatives in Ukraine or elsewhere;
25. Calls on Russia to immediately stop targeting civilians and to refrain from using prohibited weapons in Ukraine;
26. Calls on Russia to refrain from inflicting targeted damage to civilian infrastructure in Ukraine, including medical infrastructure, power grids, transport and communication infrastructure, education facilities, and infrastructure sheltering civilians;
27. Calls on all parties to the conflict to uphold the provisions of ICRC customary humanitarian law which explicitly prohibit rape during international and non-international armed conflicts;
28. Reiterates its call on the Commission to present an EU action plan on impunity and calls for a specific chapter on Ukraine; stresses that this action plan should seek to better coordinate and harmonise Member States' resources and efforts to prosecute war criminals in the EU when possible;
29. Calls on the European Council to organise an extraordinary session to discuss possible avenues within the framework of multilateral institutions to bring the perpetrators of war crimes in Ukraine to justice, including both political and military leaders;
30. Calls on the Member States that have not yet done so to ratify the Kampala amendments on the crime of aggression and the war crimes amendments to the Rome Statute; reiterates its call on the Member States to incorporate them into their national legislation;
31. Calls on the Commission and the European Council to investigate the possibility of seizing Russia's frozen assets to finance the rebuilding of Ukraine after the war;
32. Instructs its President to forward this resolution to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the European Council, the Council, the Commission, the governments and parliaments of the Member States, the United Nations, the Council of Europe, the Organization for Security and Co-operation in Europe, the President, Government and

Parliament of Ukraine, and the President, Government and Parliament of the Russian Federation.