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*Plenary sitting*

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**B9-0284/2022**

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))

**Pedro Marques, Tonino Picula, Maria Arena**  
on behalf of the S&D Group

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

*The European Parliament,*

- having regard to its previous resolutions on Russia and Ukraine, and in particular that of 1 March 2022 on the Russian aggression against Ukraine<sup>1</sup>, 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 implementation<sup>2</sup>,
  - having regard to the declaration by the High Representative of the Union for Foreign Affairs and Security Policy on behalf of the EU of 4 April 2022 on Russian atrocities committed in Bucha and other Ukrainian towns,
  - 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 Rome Statute of the International Criminal Court (ICC),
  - having regard to the 2006 agreement between the ICC and the European Union on cooperation and assistance,
  - having regard to the Charter of the United Nations,
  - having regard to UN Security Council Resolution 1325 (2000) on women, peace and security,
  - having regard to the Geneva Conventions of 1949 and the additional protocols thereto,
  - having regard to the UN General Assembly resolutions of 2 March 2022 on the aggression against Ukraine and of 24 March 2022 on the humanitarian consequences of the aggression against Ukraine,
  - having regard to the ‘Report On Violations Of International Humanitarian And Human Rights Law, War Crimes And Crimes Against Humanity Committed In Ukraine Since 24 February 2022’ by the OSCE Moscow Mechanism’s mission of experts of 12 April 2022,
  - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Russian Federation has been carrying out an illegal, unprovoked and unjustified war of aggression against Ukraine since 24 February 2022, as a consequence of which approximately 7.7 million Ukrainian citizens have been internally displaced

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<sup>1</sup> OJ C 125, 18.3.2022, p. 2.

<sup>2</sup> Texts adopted, P9\_TA(2022)0121.

and nearly 6 million have fled to neighbouring countries;

- B. whereas by 10 May 2022, the Office of the United Nations High Commissioner for Human Rights (UNHCHR) had confirmed 7 256 civilian casualties in Ukraine, including 3 496 killed and 3 760 injured; whereas reports have documented the destruction of tens of thousands of civilian objects in Ukraine, including residential buildings and civilian infrastructure such as hospitals, schools, kindergartens, and water and electricity systems, with a disastrous impact on civilians and their human rights;
- C. whereas the UN General Assembly (UNGA), in its resolution of 2 March 2022, qualified the Russian attack on Ukraine as an act of aggression in violation of Article 2(4) of the UN Charter and, in its resolution of 24 March 2022, requested the Russian Federation to immediately cease hostilities against Ukraine, in particular any attacks against civilians and civilian objects;
- D. whereas the reported atrocities committed by the Russian armed forces in Bucha and other Ukrainian towns during the Russian occupation reveal the brutality of the war of aggression waged by the Russian Federation against Ukraine and underscore the importance of coordinated international action to fight impunity and establish accountability for these violations of international humanitarian law;
- E. whereas numerous reports, complemented by photos and videos, document summary executions of civilians during the Russian occupation of villages and towns, arrests of civilians without due procedure and with ill-treatment that amounts to torture, cases of rape of civilians, including children, by individuals in the Russian military and the use of unguided artillery, cluster munitions and anti-personnel landmines during Russian attacks in populated areas; whereas, according to the Human Rights Commissioner of the Ukrainian Parliament, 400 000 Ukrainian civilians have been forcibly deported from Ukraine to the Russian Federation since 24 February 2022;
- F. whereas the four Geneva Conventions and Additional Protocol I, to which Ukraine and the Russian Federation are state parties, establish that serious violations of international humanitarian law, together with grave breaches, constitute war crimes;
- G. whereas the ICC, following two ad hoc declarations by Ukraine, has jurisdiction over war crimes, crimes against humanity and genocide committed on the territory of Ukraine since November 2013, but does not have jurisdiction over the crime of aggression in this situation, as neither Ukraine nor the Russian Federation have ratified the Rome Statute and the amendments thereto related to the crime of aggression; whereas on 2 March 2022, the prosecutor of the ICC opened an investigation into the situation in Ukraine;
- H. whereas on 3 March 2022, Ukraine, with the support of 45 participating states, invoked the OSCE Moscow Mechanism to address the human rights violations and the humanitarian impact of the Russian invasion of Ukraine;
- I. whereas on 4 March 2022, the UN Human Rights Council established an independent international commission of inquiry to investigate the alleged violations of human rights and international humanitarian law in the context of the Russian invasion of Ukraine;

- J. whereas Ukraine is a state party to the European Convention on Human Rights (ECHR), while the Russian Federation, as a result of its expulsion from the Council of Europe, will cease to be a high contracting party to the ECHR on 16 September 2022; whereas, according to Article 58(2) of the ECHR, the European Court of Human Rights (ECtHR) remains competent to deal with applications directed against the Russian Federation relating to alleged violations of the ECHR that occur before 16 September 2022;
- K. whereas on 28 March 2022, the EU announced the creation of a joint investigative team (JIT) together with Ukraine to collect evidence and investigate war crimes and crimes against humanity, with the support of Eurojust and the participation of the Office of the Prosecutor of the ICC, as announced on 25 April 2022;
1. Reiterates its condemnation in the strongest possible terms of the illegal, unprovoked and unjustified military aggression against and invasion of Ukraine by the Russian Federation as well as the indiscriminate shelling of cities and towns, the deliberate targeting of residential areas and civilian infrastructure, the forced deportations, the use of banned ammunitions and the attacks against civilians trying to flee the conflict areas via pre-agreed humanitarian corridors, which amount to gross violations of international humanitarian law by the Russian Federation in Ukraine;
  2. Calls on the Russian Federation to put an immediate end to all acts of violence against civilians and to immediately suspend all its military operations in the territory of Ukraine, as ordered by the International Court of Justice on 16 March 2022;
  3. Expresses its utmost outrage and indignation over the reported atrocities, including rapes and mass executions of civilians, and insists that all those responsible for authorising, committing and concealing such despicable war crimes and other violations of human rights and international humanitarian law must be brought to justice and held to account as swiftly as possible;
  4. Strongly condemns the horrifying, systemic use of sexual and gender-based violence as a weapon of war by the Russian armed forces and, recalling UN Resolution 1820 (2008) on sexual violence as a weapon of war, affirms that rape and other forms of sexual violence can constitute war crimes, crimes against humanity or a constitutive act with respect to genocide and should thus be prosecuted in accordance with the provisions of international law and the Rome Statute of the ICC, particularly Articles 7 and 8 thereof;
  5. Expresses its full support for the investigation launched by the ICC prosecutor into the situation in Ukraine based on alleged war crimes and crimes against humanity, for the work of the independent international commission of inquiry under the Office of the High Commissioner for Human Rights and for the efforts of independent civil society organisations aimed at collecting and preserving evidence of war crimes; underlines the importance of swift work and progress in order to secure the necessary evidence for the investigation and the prosecution of all those responsible for authorising, committing and concealing war crimes and other violations of human rights and international humanitarian law;
  6. Urges Ukraine to ratify the Rome Statute of the ICC and the amendments thereto and to become a formal member of the ICC in order to support accountability efforts for serious international crimes, and to align Ukraine's national legislation and procedures

with international law with a view to strengthening domestic legal mechanisms to counteract impunity for such crimes;

7. Calls on the Commission and the Member States to take all necessary action in support of the work of international institutions and at international tribunals or courts to prosecute the actions of perpetrators or persons fulfilling the conditions required for command responsibility; welcomes, therefore, the inquiries and investigations launched by several Member States under the principle of universal jurisdiction and in support of the work done by the ICC; welcomes, equally, the amended mandate of the EU Advisory Mission for Civilian Security Sector Reform in Ukraine (EUAM Ukraine) which will enable support for the Ukrainian authorities in the investigation and prosecution of any international crimes committed in the context of the Russian invasion of Ukraine and increase cooperation with the ICC and Member States; welcomes, furthermore, the proposed new mandate to allow Eurojust to contribute to preserving, analysing and storing evidence related to war crimes;
8. Calls on the Commission, the Member States and the international community to provide increased financial resources and technical assistance for the collection and storage of the vast amount of evidence of violations of international humanitarian law, war crimes, and crimes against humanity in Ukraine; calls on the EU, in this respect, to support this process through increased funds from the Global Europe instrument;
9. Insists on the need to increase coordination of the various mechanisms established for the fight against impunity for war crimes in Ukraine, including through an international meeting aimed at coordinating evidence collection and thus improving the efficiency of accountability processes; calls on the EU institutions to support these coordination efforts;
10. Recommends that the best possible use be made of the experience of other fact-finding mechanisms such as the International, Impartial and Independent Mechanism for Syria (IIIM) on collecting, consolidating and preserving evidence for international and national criminal proceedings and that it be extended and transformed into a permanent mechanism without geographical limitations;
11. Expresses its conviction that an ad hoc international tribunal to investigate and prosecute the Russian crime of aggression against Ukraine would be a crucial step towards ending impunity and would complement the current proceedings on war crimes, crimes against humanity and other serious crimes under international law that have already been brought before the ICC, the International Court of Justice and the ECtHR; calls on the Member States, therefore, to support the setting up of such a tribunal and on the Commission to swiftly make funds available for the initiative to establish an interim office in The Hague in order to allow Ukrainian and international prosecutors and investigators to conduct the preparatory work necessary for the swift establishment of such tribunal, and to support national jurisdictions investigating the crime of aggression for prosecution under the principle of universal jurisdiction;
12. Calls on the international community to consider how reparations may be provided, for example through the establishment of a reparations fund for victims of the Russian aggression;

13. Calls on the Ukrainian authorities to harmonise domestic legislation, notably the Criminal Code, with international criminal law and international humanitarian law and to adopt a clear and practical framework for cooperation with the ICC and other states investigating crimes committed in Ukraine;
14. Calls on the EU institutions and Member States to support actions aimed at combating impunity and promoting accountability through the establishment of a European observatory on prevention, accountability, and the fight against impunity;
15. 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 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.