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*Plenary sitting*

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**B9-0063/2023**

16.1.2023

## MOTION FOR A RESOLUTION

to wind up the debate on the statement by the Commission

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

on the establishment of a tribunal on the crime of aggression against Ukraine  
(2022/3017(RSP))

**Sergey Lagodinsky, Markéta Gregorová, Bronis Ropė, Ignazio Corrao,  
Hannah Neumann, Anna Cavazzini, Francisco Guerreiro, Marie  
Toussaint, Viola von Cramon-Taubadel, Alice Kuhnke, Jakop G. Dalunde,  
Heidi Hautala, Tineke Strik**  
on behalf of the Verts/ALE Group

**European Parliament resolution on the establishment of a tribunal on the crime of aggression against Ukraine  
(2022/3017(RSP))**

*The European Parliament,*

- having regard to its previous resolutions on Russia and Ukraine, in particular its resolution of 19 May 2022 on the fight against impunity for war crimes in Ukraine<sup>1</sup>,
  - having regard to the UN Charter, the International Covenant on Civil and Political Rights, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, and the Rome Statute and the Kampala Amendments thereto on the crime of aggression,
  - having regard to the Commission press release of 30 November 2022 presenting options to make sure that Russia pays for its crimes,
  - having regard to the European Council conclusions of 15 December 2022,
  - having regard to the UN General Assembly resolutions of 2 November 2022 entitled ‘Report of the International Criminal Court’ and 14 November 2022 entitled ‘Furtherance of remedy and reparation for aggression against Ukraine’,
  - having regard to the UN General Assembly resolution of 3 November 1950 entitled ‘Uniting for peace’,
  - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas, in line with the UN Charter and the principles of international law, all states enjoy equal sovereignty and must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state;
- B. whereas the Russian Federation has been carrying out an illegal, unprovoked and unjustified war of aggression against Ukraine since 24 February 2022, and whereas on 16 March 2022, the International Court of Justice ordered the Russian Federation to ‘immediately suspend the military operations that it commenced ... in the territory of Ukraine’; whereas those responsible for committing the crime of aggression against Ukraine must not go unpunished;
- C. whereas in the Barcelona Traction case, the International Court of Justice indicated that the obligations deriving from the outlawing of acts of aggression are obligations towards the international community as a whole as opposed to towards individual states;
- D. whereas on 30 November 2022, the Commission presented options to make sure that Russia pays for its crimes, in which it noted that Russia does not accept the jurisdiction

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<sup>1</sup> OJ C 479, 16.12.2022, p. 68.

of the International Criminal Court (ICC) and that the crime of aggression, which is a crime committed by the highest political and military leadership, can therefore not be prosecuted by the ICC; whereas the Commission proposed alternative options to ensure that justice is served, namely through a special independent international tribunal based on a multilateral treaty or a specialised court integrated into a national justice system with international judges, both of which would need strong backing from the UN;

- E. whereas on 15 December 2022, the European Council welcomed and encouraged further efforts to secure accountability for the crime of aggression and invited the Commission, the High Representative of the Union for Foreign Affairs and Security Policy and the Council to take this work forward, in accordance with EU and international law, stressing that the prosecution of the crime of aggression is of concern to the international community as a whole;
  - F. whereas any special tribunal would exclusively deal with the crime of aggression against Ukraine and not the war crimes and crimes against humanity perpetrated by Russia in Ukraine; whereas such a tribunal would complement the ICC and not replace it; whereas there are many precedents for the establishment of international ad hoc criminal tribunals; whereas the Charter of the International Military Tribunal (Nuremberg Charter) of 1945 included planning, preparation, initiation or waging of a war of aggression as examples of crimes against peace;
  - G. whereas a war of aggression is an extremely dangerous international crime, especially in the context of the possible use of all types of weapons of mass destruction leading to catastrophic consequences for world peace and human livelihood, as well as severe, long-term damage to the natural environment and climate;
1. Condemns, in the strongest possible terms, the Russian Federation's war of aggression against Ukraine, as well as the involvement of Belarus in this war, and demands that Russia immediately terminate all military activities in Ukraine and unconditionally withdraw all forces and military equipment from the entire internationally recognised territory of Ukraine;
  2. Expresses its undivided solidarity with the people of Ukraine, fully supports Ukraine's independence, sovereignty and territorial integrity within its internationally recognised borders, and underlines that this war constitutes a serious violation of international law;
  3. Calls for the establishment of a special tribunal in order to investigate and prosecute the crime of aggression committed by the political and military leadership of the Russian Federation against Ukraine, and urges the Member States to support the setting up of such a tribunal; believes that the EU must show leadership in this fight against impunity and for peace;
  4. Emphasises the important role that a special tribunal on the crime of aggression against Ukraine would play in seeking justice for the Ukrainian people and facilitating the claim for reparations and the process of any future reconciliation, as well as in deterring other international actors from imitating Russia's illegal aggression;
  5. Calls on the Commission and the Council to work with like-minded partners, in particular within the framework of the UN, to find a legally sound common way

forward in order to establish this special tribunal and resolve all outstanding issues, especially with regard to the legitimacy of such a tribunal, the immunity of state officials and *in absentia* proceedings;

6. Urges the Member States and the European External Action Service to use all means at their disposal to increase cooperation with, and build coalitions within, the UN General Assembly in order to work towards a majority that could support a possible UN initiative to set up a special tribunal; stresses the importance of other international forums in this effort, including the Council of Europe, the Organization for Security and Co-operation in Europe and the G7;
7. Supports the UN General Assembly recommendation as the first step towards the establishment by UN member states, in cooperation with Ukraine, of an international register of damage to serve as a record, in documentary form, of evidence and claims information on damage, loss or injury to all natural and legal persons concerned, and the long-term, widespread and severe damage to the natural environment and the climate, as well as to the state of Ukraine, caused by the internationally wrongful acts by the Russian Federation in or against Ukraine, as well as to promote and coordinate evidence gathering;
8. Calls on the Commission and the Member States to provide all necessary financial and practical support to any future tribunal dealing with the crime of aggression against Ukraine and the aforementioned international register of damage, including the immediate preparatory legal and technical work for their establishment, in cooperation with Ukraine;
9. Invites the Commission, the Council and the Member States, as well as their partners and allies, to engage in discussion on the legal possibility of using sovereign assets of the Russian state as reparations for the violations of international law by Russia in Ukraine, including potentially by denying such assets the protections of sovereign immunity or limiting such protections owing to the gross nature of these violations;
10. Reiterates its full support for the work of the ICC in helping to end impunity for the perpetrators of the most serious crimes of concern to the international community;
11. Calls for the EU to adopt a common position on the crime of aggression and, in this regard, on the Kampala Amendments to the ICC's Rome Statute; calls on Bulgaria, Denmark, France, Greece, Hungary and Romania to accept and ratify the Kampala Amendments;
12. Insists that perpetrators of war crimes and crimes against humanity, and possible genocide or acts with genocidal intent, as well as the responsible government officials and military leaders, must be held accountable; expresses full support for the ongoing investigation by the ICC and calls on the Member States to engage more effectively with the ICC for this purpose; urges Ukraine to ratify the Rome Statute and the amendments thereto and formally become a member of the ICC;
13. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the European External Action Service, the governments and

parliaments of the Member States, the Council of Europe, the Organization for Security and Co-operation in Europe, the President, Government and Verkhovna Rada of Ukraine, and the President, Government and Parliament of the Russian Federation.