



Plenary sitting

B9-0068/2023

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))

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on behalf of the Renew Group

B9-0068/2023

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 and reports on Ukraine and Russia, in particular its resolution of 19 May 2022 on the fight against impunity for war crimes in Ukraine¹ and its resolution of 23 November 2022 on recognising the Russian Federation as a state sponsor of terrorism²,
 - having regard to the Charter of the United Nations, UN General Assembly Resolution 3314 (XXIX) of 14 December 1974 on the Definition of Aggression, General Assembly Resolution 377 (the ‘Uniting for Peace’ resolution) of 3 November 1950, and General Assembly Resolution ES-11/1 on aggression against Ukraine of 2 March 2022,
 - having regard to the Rome Statute of the International Criminal Court (ICC) of 17 July 1998, the Kampala Amendments of 2010 on the Crime of Aggression and the 2006 agreement between the International Criminal Court and the European Union on cooperation and assistance,
 - having regard to the Geneva Conventions of 1949 and the additional protocols thereto and the Hague Conventions of 1899 and 1907,
 - having regard to the European Council conclusions of 20 and 21 October 2022 and of 15 December 2022,
 - having regard to the statement of 30 November 2022 by European Commission President von der Leyen on Russian accountability and the use of Russian frozen assets,
 - having regard to Parliamentary Assembly of the Council of Europe Resolutions 2433 (2022), 2436 (2022), 2463 (2022) and 2473 (2022),
 - having regard to the in-depth analysis of December 2022 requested by the European Parliament’s Subcommittee on Human Rights entitled ‘Tribunal for the crime of aggression against Ukraine - a legal assessment’,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas since February 2014, Russia has waged an illegal, unprovoked and unjustified war of aggression against Ukraine, which it relaunched on 24 February 2022 with a massive invasion of Ukraine;
- B. whereas during this time Russia’s forces have conducted indiscriminate attacks against residential areas and civilian infrastructure, have killed thousands of Ukrainian civilians

¹ OJ C 479, 16.12.2022, p. 68–74.

² Texts adopted, P9_TA(2022)0405.

and have carried out acts of terror throughout the country targeting civilian infrastructure;

- C. whereas thousands of civilians, including children, have already been murdered and many more tortured, harassed, sexually assaulted, kidnapped or forcibly displaced; whereas this inhumane conduct by the Russian forces and their proxies is in total disregard for international humanitarian law; 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;
- D. whereas on 30 September 2022, Russia unilaterally declared its annexation of the partly Russian-occupied Ukrainian oblasts of Donetsk, Kherson, Luhansk and Zaporizhzhia;
- E. whereas the crime of aggression is one of the core crimes in international criminal law, alongside genocide, crimes against humanity and war crimes; whereas the International Military Tribunal at Nuremberg, which focused on the crime of aggression, ruled in 1946 that aggression was ‘the supreme international crime’;
- F. whereas the Charter of the United Nations prohibits acts of aggression against other states; whereas UN General Assembly Resolution 3314 (XXIX) of 14 December 1974 on the Definition of Aggression defines aggression as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the UN Charter;
- G. whereas the Rome Statute of the International Criminal Court (ICC) contains an exhaustive list of acts of aggression that can give rise to individual criminal responsibility, which include invasion, military occupation, annexation by the use of force, bombardment and military blockade of ports; whereas Russia has committed most of these acts of aggression in Ukraine;
- H. whereas while the other most serious crimes of concern to the international community (genocide, crimes against humanity and war crimes) can be perpetrated by any State official or even by a private person, the crime of aggression is generally a leadership crime that can only be committed by those with the power to shape a State’s policy of aggression;
- I. whereas in November 2016, Russia withdrew its signature from the Rome Statute; whereas Ukraine is not a State Party to the Rome Statute, but has twice accepted the ICC’s jurisdiction for crimes under the Rome Statute committed on its territory since 21 November 2013 and has passed a law establishing provisions for Ukraine’s cooperation with the ICC;
- J. whereas Russia’s war of aggression against Ukraine is the biggest war of aggression in Europe since 1945 and represents a blatant and flagrant violation of the UN Charter and the fundamental principles of international law; whereas in its resolutions the UN General Assembly has recognised the aggression by the Russian Federation against Ukraine to be in violation of Article 2(4) of the UN Charter and that the Russian Federation must be held to account for any violations of international law in or against Ukraine, including its aggression in violation of the Charter of the United Nations;

- K. whereas governmental and international judicial bodies have initiated a series of accountability efforts, such as criminal investigations under the principle of universal jurisdiction by France, Germany, Lithuania and Sweden; whereas the Seimas of the Republic of Lithuania, Verkhovna Rada of Ukraine, Riigikogu of Estonia, Parliament of the Netherlands, Parliament of the Czech Republic, Parliament of France and Parliament of Latvia have adopted resolutions that support the establishment of an ad hoc special international tribunal;
- L. whereas on 2 March 2022, the ICC Prosecutor announced that he had proceeded to open an investigation into the situation in Ukraine focusing on past and present allegations of war crimes, crimes against humanity and genocide committed in Ukraine since 21 November 2013; whereas the current ICC investigation does not cover the crime of aggression as Russia does not accept the jurisdiction of the ICC, such that the ICC faces objective difficulties in gaining jurisdiction over the crime of aggression committed by members of the Russian leadership and their allies regarding Ukraine;
- M. whereas the European Council of 20-21 October 2022 acknowledged Ukraine's efforts to secure accountability, including for the crime of aggression, and invited the High Representative and the Commission to explore options so that full accountability can be ensured, while on 15 December 2022 the European Council welcomed and encouraged further efforts to ensure full accountability for war crimes and the other most serious crimes in connection with Russia's war of aggression against Ukraine, including ways to secure accountability for the crime of aggression and invited the Commission, the High Representative and the Council to take work forward;
- N. whereas the UN Security Council is paralysed over the situation in Ukraine owing to Russia's ability to veto any substantive action; whereas UN General Assembly Resolution 377, the 'Uniting for peace resolution', was designed to provide the UN with an alternative avenue for action when at least one permanent member of the UN Security Council uses its veto to obstruct the Security Council from carrying out its functions as mandated by the UN Charter;
1. Reiterates its condemnation in the strongest possible terms of the unprovoked, illegal, and unjustified Russian war of aggression against Ukraine, and calls on Russia to immediately terminate all military activities in Ukraine and unconditionally withdraw all forces and military equipment from the entire internationally recognised territory of Ukraine; recalls the European Union's steadfast support for Ukraine and its sovereignty, independence and territorial integrity within internationally recognised borders;
 2. Underlines that President Putin, the other Russian leaders and their Belarusian allies who planned and gave the relevant orders to start this war of aggression against Ukraine must be held accountable;
 3. Reiterates its call on the Commission, the High Representative and the Member States to support full accountability for all the crimes committed during Russia's war of aggression against Ukraine, especially the crime of aggression and other most serious crimes of concern to the international community such as war crimes and crimes against humanity; calls, therefore, on the Commission, the High Representative and the Member States to work together with Ukraine and the international community on

setting up an international tribunal to investigate and prosecute the crime of aggression committed against Ukraine by Russia's leaders, while also considering working through the UN General Assembly to exceptionally refer the crime of aggression against Ukraine to the International Criminal Court (ICC); underlines the importance of ensuring that the tribunal, whatever format it ultimately takes, is composed of international judges in order to guarantee its impartiality and international expertise in ruling on these crimes;

4. Calls for the EU institutions and the Member States to work in close cooperation with Ukraine to seek and to build political support for these goals from international partners and organisations, in particular in the UN General Assembly, and to provide all the necessary human and budgetary resources and administrative, investigative and logistic support for a strong and unequivocal international legal response to the aggression against Ukraine, allowing no place for impunity for the crime of aggression and other most serious crimes of concern to the international community;
5. Stresses that the EU should play a leading role in the efforts to hold President Putin, other high-level Russian officials and their Belarusian allies accountable for the crime of aggression against Ukraine and that this leading role is key for the success of these efforts; stresses that those responsible for this war of aggression should also bear financial responsibility for their actions, and thus reiterates its call on the Commission to establish a legal instrument allowing for frozen Russian assets and funds to be confiscated so that they can be used for the reconstruction of Ukraine and compensation for Ukrainian victims and their families; underlines that effective EU public diplomatic efforts among international partners and strategic communication are necessary;
6. Underlines that as a matter of justice Ukrainian victims and their families should be awarded compensation for the losses incurred; calls for the EU institutions and the Member States to work towards a victim compensation mechanism as a part of the proposed international tribunal;
7. Reiterates its full support for the investigation launched by the ICC Prosecutor into alleged war crimes, crimes against humanity or genocide committed in Ukraine, for the work of the Commission of Inquiry of the Office of the UN High Commissioner for Human Rights, for the efforts of the Ukrainian prosecutors and investigators working to bring to justice those responsible for war crimes and other serious crimes such as forced displacement, deportation and forced adoption of children, and for the efforts of civil society organisations working to collect and preserve evidence of war crimes and other serious crimes;
8. Calls for the EU institutions and the Member States to step up their support to the Ukrainian authorities investigating and preparing cases regarding the most serious crimes of concern to the international community, including their support to building the capacity of the Ukrainian judiciary;
9. Draws attention to the fact that the investigation and prosecution of the crime of aggression should continue in parallel with the ongoing investigations into alleged war crimes, crimes against humanity or genocide committed in Ukraine;
10. 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 Secretary-General and the President of the United Nations General Assembly, the Council of Europe, the Organization for Security and Co-operation in Europe, the President, Government and Parliament of Ukraine, the President, Government and Parliament of the Russian Federation and the Prosecutor General of the International Criminal Court.