



---

*Plenary sitting*

---

**B9-0069/2023**

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))

**Pedro Marques, Tonino Picula, Juozas Olekas, Raphaël Glucksmann**  
on behalf of the S&D Group

**B9-0069/2023**

**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 on Ukraine and Russia, in particular that of 19 May 2022 on the fight against impunity for war crimes in Ukraine<sup>1</sup>,
  - having regard to the European Council conclusions of 15 December 2022,
  - having regard to the Charter of the United Nations,
  - having regard to the Rome Statute of the International Criminal Court (ICC),
  - having regard to the UN General Assembly resolution of 14 November 2022 entitled ‘Furtherance of remedy and reparation for aggression against Ukraine’,
  - having regard to UN General Assembly Resolution 377 (V) 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 in its resolution of 2 March 2022, the UN General Assembly qualified the Russian war against 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 that the Russian Federation immediately cease hostilities against Ukraine;
- C. whereas on 16 March 2022, the International Court of Justice ordered the Russian Federation to immediately suspend its military operations in the territory of Ukraine;
- D. whereas the reported atrocities committed by the Russian armed forces in Bucha, Irpin and many 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 establish accountability for the crime of aggression and all violations of international humanitarian law;
- E. whereas the ICC, following two ad hoc declarations by Ukraine, has jurisdiction over war crimes, crimes against humanity and the crime of genocide committed on the territory of Ukraine since November 2013, but does not have jurisdiction over the crime of aggression, as defined in Article 8 bis of the Rome Statute, in this situation, because neither Ukraine nor the Russian Federation have ratified the Rome Statute and the

---

<sup>1</sup> Texts adopted, P9\_TA(2022)0218.

amendments related to the crime of aggression; whereas the Prosecutor of the ICC has been conducting an investigation into the situation in Ukraine since 2 March 2022; whereas the establishment of a special tribunal on the crime of aggression will not affect the jurisdiction of the ICC over other crimes, and will instead complement it;

- F. whereas on 30 November 2022, the Commission presented alternative options on how to establish accountability, 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 require strong backing from the UN;
- G. whereas in its conclusions of 15 December 2022, the European Council encouraged further efforts to ensure full accountability for war crimes and to secure accountability for the crime of aggression and invited the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) 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;
1. Reiterates its condemnation, in the strongest possible terms, of the Russian war of aggression against Ukraine, its unwavering support for Ukraine's independence, sovereignty and territorial integrity within its internationally recognised borders and its call for accountability for all war crimes, crimes against humanity and the crime of aggression;
  2. 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;
  3. Emphasises that the Russian crime of aggression against Ukraine is a clear and undisputed breach of the UN Charter which, in the interests of global security and the rules-based international order, cannot remain unanswered by the international community;
  4. Expresses its full support for the ongoing investigation by the Prosecutor of the ICC into the situation in Ukraine, including alleged war crimes and crimes against humanity;
  5. Urges Ukraine and the Russian Federation to ratify the Rome Statute of the ICC and its amendments and formally become members of the ICC in order to support international efforts to establish accountability for serious international crimes; calls for the EU to make further diplomatic efforts to encourage the ratification of the Rome Statute and all its amendments globally;
  6. Reiterates its call for the establishment of a special international tribunal to investigate and prosecute the crime of aggression committed by the political and military leadership of the Russian Federation against Ukraine; calls on the Commission, the Council and the European External Action Service (EEAS) to take a leading role in establishing the special tribunal and to provide all necessary political, financial and practical support for its establishment, including to set up an interim prosecutor's office in The Hague as a first practical step towards international investigations of the crime of aggression

against Ukraine and future prosecutions;

7. Calls on the EU institutions, in particular the Commission, the VP/HR and the EEAS, to work towards increasing support among international partners and organisations, in particular within the UN, for the establishment of an effective legal mechanism to address the crime of aggression and for its endorsement by the UN General Assembly;
8. Notes that in its resolution of 14 November 2022, the UN General Assembly acknowledged that the Russian Federation must be held to account not only for any violations of international law in or against Ukraine, but also for its aggression in violation of the UN Charter;
9. Calls on the Commission, the VP/HR and the EEAS, alongside the Ukrainian authorities, to build upon support within the UN General Assembly and explore further possibilities for a UN initiative on the special tribunal;
10. Underlines that, while the exact composition and methods of operation of the special tribunal remain to be determined, they will have to respect the highest criteria on transparency and impartiality; deems, furthermore, that the special international tribunal must have jurisdiction to investigate not only the political and military leadership of the Russian Federation, but also that of the enabling state of Belarus, from the territory of which and with the logistic support of which the Russian Federation is committing its war of aggression against Ukraine;
11. 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 governments and parliaments of the Member States, 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.