

Resolution on the establishment of a tribunal on the crime of aggression against Ukraine

2022/3017(RSP) - 19/01/2023 - Text adopted by Parliament, single reading

The European Parliament adopted by 472 votes to 19, with 33 abstentions, a resolution on the establishment of a tribunal on the crime of aggression against Ukraine.

The text adopted in plenary was tabled by the EPP, S&D, Renew, Greens/EFA, ECR groups and Members.

Russia's war of aggression against Ukraine constitutes a blatant and flagrant violation of the UN Charter, the fundamental principles of international law and various international agreements. Russian forces have conducted indiscriminate attacks against residential areas and civilian infrastructure, have killed thousands of Ukrainian civilians and have carried out acts of terror throughout the country targeting civilian infrastructure. 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 Russia 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.

Crime of aggression

According to the Rome Statute of the ICC, the crime of aggression is different from war crimes or crimes against humanity. The crime of aggression is generally a leadership crime in that it can only be committed by those with the power to shape a state's policy of aggression.

Parliament 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 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.

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. Parliament reiterates its call on the Commission, the VP/HR and the Member States to support full accountability for all crimes committed by Russia and its allies and proxies during their war of aggression against Ukraine.

Special international tribunal

The resolution underscored the urgent need for the EU and its Member States, in close cooperation with Ukraine and the international community, preferably through the UN, to push for the creation of a special international tribunal to prosecute the crime of aggression against Ukraine perpetrated by the political and military leadership of the Russian Federation and its allies and to find a legally sound, common way forward on this matter.

According to Parliament, establishing such a tribunal would fill the large gap in the current institutional international criminal justice set-up and should be based on the standards and principles that apply to the ICC as set out in the Rome Statute.

The special tribunal would complement the investigative efforts of the ICC and its Prosecutor, as it would focus on alleged genocide, war crimes and crimes against humanity committed in Ukraine. Parliament reiterates its full support for the ongoing investigation by the Prosecutor of the ICC into the situation in Ukraine and underlines the importance of Ukraine ratifying the Rome Statute of the ICC and its amendments and formally becoming a member of the ICC.

Members emphasised that the EU's preparatory work on the special tribunal should begin without delay, focus on establishing the arrangements for the special tribunal in cooperation with Ukraine and support Ukrainian and international authorities in securing evidence to be used in the future special tribunal.

Lastly, Parliament strongly believes that the establishment of this special tribunal for the crime of aggression would send a very clear signal to both Russian society and the international community that Putin and the Russian political and military leadership can be convicted for the crime of aggression in Ukraine. It also stated that the establishment of this tribunal would be a clear signal to the political and business elite in Russia and Russian allies that it is no longer feasible for the Russian Federation under Putin's leadership to return to 'business as usual' with the West.