



Communiqué
of the participants of international conference
“Special tribunal for the crime of aggression against Ukraine.
Justice to be served”

21 August 2023, Kyiv, Ukraine

We, participants of the international conference “Special tribunal for the crime of aggression against Ukraine. Justice to be served” gathered in Kyiv on 21 August 2023 to discuss the need to ensure accountability for the crime of aggression against Ukraine and establish the relevant Special tribunal, have agreed as follows.

More than nine years ago, in February 2014, Ukraine became the victim of acts of aggression committed by the Russian Federation in a blatant denial of the foundational principle of the prohibition of the use of force against sovereignty, political independence and territorial integrity of another State and the right of all peoples to freely determine their political status and freely pursue their economic, social and cultural development. On 24 February 2022, Russia launched a full-scale invasion to Ukraine.

Today war crimes, crimes against humanity and genocide committed during Russia’s war against Ukraine are being investigated by Ukraine and a number of other states, as well as by the International Criminal Court (ICC). The referral of the situation in Ukraine made by 43 States and the previously given Ukraine’s consent to the ICC’s jurisdiction over all crimes committed during the armed conflict since 2014 provide a solid basis for the work of the ICC.

While international criminal justice has important achievements in addressing genocide, crimes against humanity and war crimes, progress concerning the crime of aggression – or crimes against peace as it was labelled during the Nuremberg Tribunal, has been very limited. Unlike for other core international crimes, the ICC faces objective difficulties in exercising jurisdiction over the crime of aggression.

Now the time has come to complete the architecture of international criminal justice initiated by the 1942 London Declaration. We need to fill the gap and establish a Special tribunal which would have a specific jurisdiction over the crime of aggression against Ukraine. The war of aggression Russia is waging against Ukraine is the biggest war of aggression in Europe since 1945 and the legal response to it shall be

appropriate and resemble the response which the international community found to bring perpetrators to responsibility after World War II.

Establishment of a Special tribunal for the crime of aggression against Ukraine is necessary, as currently there is no international court or tribunal that could try Russia's top political and military leadership for committing the crime of aggression against Ukraine. The creation of a Special Tribunal will close this gap.

Ensuring accountability for the crime of aggression against Ukraine is an integral part of full comprehensive accountability for violations of international law committed during Russia's aggression against Ukraine. Establishment of the Special tribunal is an appropriate way to ensure accountability for the crime of aggression against Ukraine.

Ensuring accountability for the crime of aggression against Ukraine is an integral part of the Peace Formula of the President of Ukraine Volodymyr Zelenskyy.

Establishment of the Special tribunal for the crime of aggression against Ukraine has already been supported by the European Parliament, Parliamentary Assemblies of the Council of Europe, NATO and OSCE, national parliaments, international and national bar associations. The need to establish a tribunal which will ensure accountability for the crime of aggression against Ukraine was also underlined in the European Council Conclusions, Decisions of the Committee of Ministers of the Council of Europe, Reykjavik Declaration of the Summit of the Heads of State and Government of the Council of Europe.

We strongly welcome start of operations of the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA) in The Hague and consider it to be an important step on the way towards establishment of the Special tribunal.

We call on international community to unite efforts and work closely and together with Ukraine on the establishment of the Special Tribunal for the crime of aggression against Ukraine. The Special tribunal shall be a legitimate and credible justice mechanism which will be able to effectively do its job – bring to accountability representatives of the political and military leadership of the Russian Federation for the crime of aggression against Ukraine. Establishment of the Special tribunal shall be a response of international community to blatant and flagrant violation of the UN Charter, in particular of the principle of non-use of force or threat of force by the Russian Federation. Establishment of the Special tribunal shall also play an important role in preventing future possible aggressions, as possible aggressors will see that the acts of aggression get relevant legal response. Crime of aggression committed by Russian political and military leadership against Ukraine shall not remain without appropriate legal response. Thus we call on international community to work actively and effectively to establish a Special tribunal in order to ensure accountability for the crime of aggression against Ukraine.

Signatories

1	Aarif	Abraham	Barrister, writer and speaker specialising in public international law, international criminal law and human rights, Doughty Street International & Accountability Unit
2	Dr. David M.	Crane	Founding Chief Prosecutor, UN Special Court for Sierra Leone
3	Dr. Mark	Ellis	Executive Director, International Bar Association
4	Terje	Einarsen	Professor of International Law, University of Bergen
5	Ralf	Fuecks	Director, Center for Liberal Modernity
6	Antoine	Garapon	French jurist, Retired Judge, doctor of law, Secretary General of the Institute for Fundamental Studies of Justice (Paris), member of the editorial board of Esprit magazine, former juvenile judge
7	Richard	Goldstone	South African former judge. First Chief Prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and for Rwanda
8	Stephan	Hobe	University Professor, Dr. h.c., Director of the Institute of Air Law, Space law and Cyber Law as well as co-Director of the International Investment law Centre Cologne
9	Klaus	Hoffmann	Senior Prosecutor, member of the Atrocity Crimes Advisory Group
10	Wayne	Jordash	Barrister KC, President of Global Rights Compliance, lead of the Mobile Justice Teams supporting Ukrainian OPG. Deputy of ACA
11	James	Joseph	Academic Lawyer, Director of The Duty Legacy
12	Zanda	Kalnina-Lukasevica	Deputy Speaker of the Saeima of the Republic of Latvia
13	Roderich	Kiesewetter	Member of the German Bundestag, Spokesperson for crisis prevention, Foreign Policy Representative

14	Carrie	McDougall	International lawyer, Melbourne Law School, University of Melbourne
15	Sir Geoffrey	Nice	British barrister. Lead prosecutor for the UN in trial of Slobodan Milošević's. Chair Uyghur Tribunal
16	Mathilde	Philip-Gay	Professor of Law Jean Moulin University of Lyon (France)
17	Mikolaj	Pietrzak	Advocate, Dean of the Warsaw Bar Association
18	David	Scheffer	American lawyer and diplomat who served as the first United States Ambassador-at-Large for War Crimes Issues, International Law Professor
19	Rein	Tammsaar	Permanent Representative of the Republic of Estonia to the United Nations
20	Denakpon	Tchobo	Co-founder and President, Global Justice Intelligence Eyes, Inc. (GJIE)
21	Dainius	Žalimas	Professor at the Mykolas Romeris University (Vilnius), former President of the Constitutional Court of the Republic of Lithuania
22	Oksana	Blazhivska	Member of the High council of justice
23	Petro	Bobkov	International Commission on Missing Persons
24	Maryna	Bondarenko	Ukrainian judge
25	Serhii	Burlakov	Judge of the Supreme Court of Ukraine, Member of the High Council of Justice of Ukraine
26	Olga	Guzhva	Consortium of the veteran organization of the East
27	Oleksandr	Herasymenko	President of the Institute of political, legal and religious studies
28	Oleksandr	Kachura	Ukrainian MP, Co-Head of the inter-factional association "Tribunal for Russian Aggressors"
29	Serhii	Kalchenko	MP, Chairperson of Committee on Rules of Procedure
30	Olena	Khomenko	Ukrainian MP, Member of the Committee on National Security, Defense and Intelligence, Member of the Ukrainian delegation to the PACE, PACE

			Vice-President
31	Olha	Koban	Associate Professor of the Department of Theory and History, Taras Shevchenko National University of Kyiv Law School
32	Anton	Korynevych	Ambassador-at-large, Ministry of Foreign Affairs of Ukraine
33	Denys	Maslov	Ukrainian MP, Chair of Committee on legal policy of Ukrainian Parliament
34	Maria	Mezentseva	Ukrainian MP, Member of the Ukrainian delegation to the PACE
35	Anastasiia	Mochulska	MFA of Ukraine
36	Oleksandr	Pavlichenko	Human rights defender, Executive Director of the Ukrainian Helsinki Human Rights Union
37	Volodymyr	Pylypenko	Assoc. Prof., Head of the Institute of International Law of Lviv University of Business and Law
38	Vitalii	Salikhov	Advocate, Dean of the Warsaw Bar Association
39	Oleksandr	Slyvchuk	Coordinator of a programme at a think tank Transatlantic Dialogue Center
40	Olena	Sviatun	Associate Professor of the Chair of Comparative and European Law, EaS Institute of International Relations, Taras Shevchenko National University of Kyiv
41	Yuliia	Tavolzhanska	Yaroslav Mudryi National Law University, Department of Criminal Law
42	Oksana	Zolotaryova	Director of Department of International Law MFA Ukraine
43	Zoya	Yarosh	Chairman of the Supervisory Board of the Ukrainian Advocates Association, deputy of the Kyiv City Council
44	Oleg	Yatsura	NGO Tribunal, Director

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