



Open Letter to Governments of the Core Group for Prosecution of the Crime of Aggression against Ukraine, International Organisations and Legal Community on Establishment of the Special Tribunal for the Crime of Aggression against Ukraine

February 2025 will mark the **third anniversary of the full-scale invasion by the Russian Federation into Ukraine**. Despite the threat this act of aggression poses to international peace and order, it remains unaddressed and unpunished.

Since the onset of the war, both Ukrainian and international legal communities have been urging states around the world and international organizations to support the establishment of the Special Tribunal for the Crime of Aggression against Ukraine (the Special Tribunal, Tribunal). This initiative aims to fill the gap in international accountability mechanisms and ensure comprehensive liability for international crimes.

Over the past three years, efforts to establish the Special Tribunal have garnered support from key international institutions, including the European Union, the European Parliament, the Parliamentary Assembly of the Council of Europe, the Parliamentary Assembly of the Organization for Security and Co-operation in Europe, and the North Atlantic Treaty Organization Parliamentary Assembly. Additionally, numerous states worldwide have endorsed this endeavour. Simultaneously, leading international legal associations such as the [International Bar Association](#), the American Bar Association (1, 2), the [New York State Bar Association](#), and the [New York City Bar](#), among others, have backed the establishment of the Special Tribunal. The Ukrainian Bar Association has also made a [contribution](#) in this regard.

In a [joint statement](#) dated May 9, 2023, the Core Group on accountability for the crime of aggression against Ukraine endorsed the "establishment of an appropriate justice mechanism to ensure effective accountability for the crime of aggression, which is of concern to the international community as a whole." This commitment was reaffirmed on April 2, 2024, in the [Political Declaration](#) of the Ministerial Conference on Restoring Justice for Ukraine, wherein governments of 44 states pledged "to work towards the establishment of a special tribunal for the investigation and prosecution of the crime of aggression against Ukraine, that would contribute to the accountability of the highest levels of military and political leadership."

Despite such comprehensive support for the Special Tribunal and clear provisions of international law criminalizing the crime of aggression against UN member states, it is unfortunate that the Special Tribunal is yet to be established.

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In view of the above, lawyers of Ukraine urge the international community to:

1. **Expedite efforts to establish the Special Tribunal.** Achieving full and comprehensive accountability for Russian crimes in Ukraine is impossible without ensuring liability for the crime of aggression and creating the Special Tribunal. Further delays are unacceptable; the Tribunal is essential for the coherence of international law and the global system of peace and justice.
2. **Establish the Tribunal as an international institution with its own legal personality and the capacity to enter into treaties with states and international organizations.** The Tribunal must not be rooted in Ukrainian jurisdiction or deliver judgments in the name of Ukraine, as this would undermine the gravity of the crime of aggression. Instead, its decisions should be issued in the name of international peace and justice.
3. **Ensure that the Special Tribunal has the authority to lift both functional and personal immunity** for anyone charged with the crime of aggression, including current heads of state, heads of government, and foreign ministers (the 'Troika'). Limiting this power would signal that remaining in power guarantees immunity. Therefore, the Special Tribunal should be established based on an international treaty, as only this configuration can ensure the Tribunal's effectiveness and legitimacy as an instrument of justice.

We believe that establishing the Special Tribunal through a bilateral agreement between Ukraine and the Council of Europe would be the most realistic and effective option. As the largest regional organization in Europe, the Council of Europe has both moral and legal grounds to actively participate in creating the Tribunal, given that Russia was a member of the Council when its aggression against Ukraine began in 2014, as well as at the onset of its full-scale invasion in 2022.

8 November 2024

President

Ukrainian Bar Association

Mykola Stetsenko

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