

## Model Indictment for Crime of Aggression Against Ukraine: Prosecutor v. President Vladimir Putin

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What follows is a model of a criminal indictment against President Vladimir Putin for the crime of initiating and executing a war of aggression against Ukraine. The indictment represents the type of document international war crimes prosecutors or national prosecutors could file before an international or national court.

The model indictment proceeds using the definition of aggression under international criminal law as set out in Article 8*bis* of the Rome Statute to the International Criminal Court (ICC).<sup>1</sup> The ICC does not have jurisdiction to prosecute the crime of aggression in this scenario, but we draw on the Rome Statute definition because it is one of the most narrow definitions of the crime of aggression and because it was carefully drafted to ensure that it does not go beyond existing general customary international law. Notably, the Russian Federation's current Deputy Permanent Representative to the United Nations, Gennady Kuzmin, affirmed that Russia was satisfied with this definition of the crime.<sup>2</sup> The scope of the offense in the model indictment is also consistent with the definition of aggression set forth by the UN General Assembly in 1974,<sup>3</sup> and the key features of the crime of aggression under a range of domestic criminal codes including Ukraine,<sup>4</sup> Russia,<sup>5</sup> and Belarus.<sup>6</sup>

The crime of aggression was first defined and prosecuted at the Nuremberg Tribunal. Diplomats and lawyers from the Soviet Union were vital in this endeavor. In her book, *Soviet Judgment at Nuremberg*, historian Francine Hirsch writes, "The idea of bringing Nazi leaders before an international tribunal was forged in the Soviet Union."<sup>7</sup> Indeed it was

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<sup>1</sup> [Rome Statute](#) of the International Criminal Court.

<sup>2</sup> Gennady Kuzmin and Igor Panin in [The Crime of Aggression: A Commentary](#) (Claus Kreß and Stefan Barriga eds. Cambridge Univ. Press 2016) (Kindle Edition, at 2304).

<sup>3</sup> UN General Assembly [Resolution 3314 \(XXIX\)](#), 14 December 1974.

<sup>4</sup> [Criminal Code](#) of the Republic of Ukraine, Art. 437 (criminalizing the "planning, preparation, and waging of an aggressive war").

<sup>5</sup> [Criminal Code](#) of the Russian Federation, Art. 353 (criminalizing the "planning, preparation, unleashing or waging of an aggressive war").

<sup>6</sup> [Criminal Code](#) of Belarus, Art. 122 (criminalizing the "planning, preparation, unleashing or waging of an aggressive war"). See also [Penal Code](#) of Poland, Art. 117 (criminalizing the preparation and initiation of an aggressive war").

<sup>7</sup> Francine Hirsch, [Soviet Judgment at Nuremberg](#) (Oxford Univ. Press 2020); see also Francine Hirsch, [How the Soviet Union Helped Establish the Crime of Aggressive War](#), Just Security, 9 March 2022.

Soviet lawyer Aron Moïshe Trainin who laid the conceptual groundwork for the definition of the crime of aggression.<sup>8</sup>

The Nuremberg judgment considered aggression the supreme crime: “To initiate a war of aggression is not only an international crime; it is the supreme international crime, differing only from other war crimes in that it contains within itself the accumulated evil of the whole.”<sup>9</sup>

The evidentiary basis underlying this model indictment is limited to available public sources. For that reason alone, the counts listed against President Putin focus on the acts of “initiating” and “executing” Russia’s war of aggression against Ukraine. Without doubt, access to non-public materials would establish a sufficient basis to believe that President Putin also committed the acts of “planning” and “preparing” for aggression.

The indictment is also limited to President Putin. It should be understood, however, that the definition of the crime of aggression in the Rome Statute could also potentially apply to other senior Russian officials who were in a “position effectively to exercise control over or to direct the political or military action of a State.”<sup>10</sup> The Rome Statute definition could also potentially apply to President Alexander Lukashenko and other senior Belarusian officials for “action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State.”<sup>11</sup>

## **INDICTMENT**

**The Office of the Prosecutor charges:**

**Vladimir Vladimirovich PUTIN**

**with the CRIME OF AGGRESSION as set forth below:**

### **I. THE ACCUSED**

#### **Rise to Political Power**

1. Vladimir Vladimirovich PUTIN was born on 7 October 1952 in Leningrad. After studying law at Leningrad University, he spent 15 years working as a foreign intelligence officer for

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<sup>8</sup> Id.

<sup>9</sup> Nuremberg Trial [Proceedings Vol. 22](#), 30 September 1946.

<sup>10</sup> [Rome Statute](#) of the International Criminal Court, Art. 8 bis(1).

<sup>11</sup> [Rome Statute](#) of the International Criminal Court, Art. 8 bis(1)(f).

the KGB, the Soviet Union's security apparatus. In 1990, PUTIN returned to Leningrad and began working for the first directly elected mayor of the city.

2. In 1996, PUTIN moved to Moscow, taking a position with the presidential staff at the Kremlin. Two years later, then-President Boris Yeltsin appointed PUTIN as Director of the FSB, the domestic successor organization to the KGB.

3. In 1999, Yeltsin appointed PUTIN as Prime Minister. PUTIN's public profile grew rapidly after he organized a military campaign against secessionist rebels in Chechnya and upon Yeltsin's resignation he appointed PUTIN as Acting President. PUTIN won the Presidential election in 2000. He was re-elected again in 2004.

### **Consolidation of Political Power**

4. In 2007, prohibited by the Russian Constitution from serving as President for more than two consecutive terms, PUTIN supported Dimitry Medvedev as his successor. After Medvedev won the 2008 Presidential election, he appointed PUTIN as Prime Minister, and PUTIN was also nominated as leader of the United Russia party.

5. Constitutionally permitted to run for President again in 2012, PUTIN won the election, though the Organization for Security and Cooperation in Europe (OSCE) raised concerns about electoral fairness.<sup>12</sup> In the aftermath of PUTIN's election, Russia's legislative body, the State Duma, dominated by the United Russia party, passed a series of laws cracking down on civil society and opposition voices.<sup>13</sup>

6. Russia next held Presidential elections in 2018.<sup>14</sup> PUTIN was re-elected in what OSCE election monitors described as an "overly controlled legal and political environment" characterized by a "lack of genuine competition."<sup>15</sup>

7. In 2020, PUTIN introduced an array of constitutional amendments, which were passed in the State Duma, where the United Russia party held a super-majority.<sup>16</sup> One of the

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<sup>12</sup> OSCE, [Press Release](#), 5 March 2012.

<sup>13</sup> Human Rights Watch, *Laws of Attrition: Crackdown on Russia's Civil Society after Putin's Return to the Presidency*, [News Release](#), 24 April 2013.

<sup>14</sup> CNN, [Russian presidential term extended to 6 years](#), 22 December 2008.

<sup>15</sup> OSCE International Election Observation Mission, Russian Federation – Presidential Election, [Statement of Preliminary Findings and Conclusions](#), 18 March 2018.

<sup>16</sup> Andrew Roth, [For the Kremlin, winning a supermajority in the Russian parliament was the easy part](#), *Washington Post*, 20 September 2016. The amendments were then passed in the regional legislative assemblies and approved by the Constitutional Court. [The Moscow Times](#), 16 March 2020. Although not required by law, PUTIN also held a "nationwide vote" on the amendments. Ben Noble, [The Conversation](#), 2 July 2020.

amendments provided that the two-term limit on the six-year Presidency did not apply to the incumbent (or his predecessor), thus allowing for the possibility that PUTIN could retain the Presidency through to 2036.<sup>17</sup> The Council of Europe’s body of constitutional experts, the Venice Commission, concluded that additional powers given to the President under the amendments undermine separation of powers principles and the independence of the Russian judiciary, and “raise serious concerns as to the accountability of the President.”<sup>18</sup>

## **Command and Control**

8. As President, PUTIN is Commander-in-Chief of the Armed Forces, with authority to direct military operations and approve military doctrine.<sup>19</sup> The Minister of Defense and the Chief of the General Staff are directly subordinate to him.<sup>20</sup> He has the authority to introduce total or partial mobilizations, martial law and statutory acts of wartime.<sup>21</sup>

9. As President, PUTIN chairs the Security Council of the Russian Federation and appoints its members.<sup>22</sup>

10. As President, PUTIN has authority to name and dismiss the heads of other federal executive bodies in charge of defense, security, internal affairs, foreign affairs, and emergency situations.<sup>23</sup> These authorities give PUTIN direct control over the organs of state security. For example, the National Guard, which lies outside the chain of command of the Armed Forces, reports directly to PUTIN.<sup>24</sup>

11. On 3 March 2022, the Kremlin released a statement following PUTIN’s phone conversation with French President Emmanuel Macron. The statement read, “It was emphasised [by PUTIN] that the tasks of the special military operation will be fulfilled in any event.”<sup>25</sup> It also said, the Russian military operation in Ukraine was going “according to plan.”<sup>26</sup> An official in the French Presidency confirmed that PUTIN told Macron the operation was “going according to plan.”<sup>27</sup>

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<sup>17</sup> [Закон РФ о поправке к Конституции РФ Art 81\(3.1\)](#).

<sup>18</sup> Venice Commission, [Opinion 23 March 2020](#).

<sup>19</sup> [Constitution](#) of the Russian Federation.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Russian Federation [official internet portal for legal information](#).

<sup>25</sup> Reuters, [Putin tells Macron Russia will achieve its goals in Ukraine](#), 3 March 2022.

<sup>26</sup> Reuters, [Putin tells Macron Russia will achieve its goals in Ukraine](#), 3 March 2022. New York Times, [A Putin-Macron Call](#), 3 March 2022.

<sup>27</sup> France24, [Macron bucks Western trend by keeping dialogue open with Putin](#), 7 March 2022.

12. On 4 March 2022, after the invasion entered its second week, Kremlin spokesperson Dmitry Peskov said, “The Supreme Commander [PUTIN] receives information and makes decisions about what method and means to carry out the tasks during the operation.”<sup>28</sup>

## II. BACKGROUND TO THE CONFLICT

### Geopolitical Conflict and Partial Occupation

13. Ukraine has a population of 44 million and was formerly part of the Soviet Union. It has been an independent nation since 1991.

14. Ukraine is second only to Russia as the largest country by territory in Europe and shares a 1900 km border with Russia to the northeast. It is also bordered by Belarus to the north, and Hungary, Poland, Romania, Slovakia, and Moldova to the west.

15. In 1994, Ukraine acceded to the Nuclear Non-Proliferation treaty.<sup>29</sup> In foregoing its nuclear weapons, Ukraine was granted assurances by Russia, the United Kingdom and the United States that they would respect Ukraine’s independence, sovereignty, and existing borders.<sup>30</sup> The Budapest Agreement further provided that these states would “refrain from the threat or use of force against the territorial integrity or political independence of Ukraine” and seek immediate assistance from the UN Security Council if Ukraine became “a victim of an act of aggression or the object of the threat of aggression in which nuclear weapons were used.”<sup>31</sup>

16. In December 2004, following a fraught election, Viktor Yushchenko was voted in as President of Ukraine on a platform of reducing Ukraine’s relationship with Russia in favor of increasing alignment with the EU.<sup>32</sup>

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<sup>28</sup> Julia Davis, [The Daily Beast](#), 5 March 2022 (“Kremlin spokesman Dmitry Peskov told state TV on Friday that President Vladimir Putin was directly involved in making command decisions with respect to Russia’s military activities in Ukraine”); [Кремль прокомментировал просьбу Кадырова дать приказ на взятие Киева и Харькова](#), Lenta, 4 March 2022.

<sup>29</sup> UNODA Treaties: [Ukraine: Accession to Treaty on the Non-Proliferation of Nuclear Weapons \(NPT\)](#).

<sup>30</sup> Ukraine, Russian Federation, United Kingdom and United States of America, [Memorandum on security assurances in connection with Ukraine’s accession to the Treaty on the Non-Proliferation of Nuclear Weapons](#). Budapest, 5 December 1994.

<sup>31</sup> Id.

<sup>32</sup> Kataryna Wolczuk, [Ukraine after the Orange Revolution](#), Centre for European Reform, 4 February 2005.

17. In 2008, consistent with the pursuit of greater Ukrainian ties to Europe, President Yushchenko secured an announcement by the North Atlantic Treaty Alliance (NATO) of a pathway to Ukraine's eventual membership in NATO.<sup>33</sup>

18. In November 2013, Yushchenko's successor, Viktor Yanukovich suspended trade talks with the EU, citing pressure from Russia, and announced a revival of ties with Russia. In response, Ukrainians took to the streets in what came to be known as the Maidan Protests.<sup>34</sup>

19. Yanukovich's violent crackdown on the Maidan protests escalated in late February 2014, after which the Ukrainian parliament voted to oust him.<sup>35</sup> PUTIN described Yanukovich's ouster as an "anti-constitutional coup and armed seizure of power."<sup>36</sup>

20. Days after Yanukovich was ousted, Russian forces invaded and occupied Crimea, a peninsula in the south of Ukraine with an ethnic Russian majority. In March 2014, Russia annexed Crimea in violation of the UN Charter.<sup>37</sup> Russia quickly convened a referendum in which the people of Crimea voted to join Russia.<sup>38</sup> The referendum, conducted under military occupation and without external monitoring, was denounced by the UN General Assembly as illegitimate.<sup>39</sup>

21. Russia then began an armed intervention in eastern Ukraine, in an area known as the Donbas region. In March 2014, the OSCE deployed a special monitoring mission to Ukraine.<sup>40</sup>

22. By April 2014, Russian-backed separatists in eastern Ukraine occupied government buildings in Donetsk and Luhansk, and proclaimed the areas as Russian aligned "people's republics."<sup>41</sup>

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<sup>33</sup> NATO Bucharest Summit, [NATO decisions on open-door policy](#), 3 April 2008. NATO Bucharest Summit, [NATO-Ukraine Commission discusses a new phase of relations](#), 4 April 2008.

<sup>34</sup> BBC News, [Ukraine protests after Yanukovich EU deal rejection](#), 30 November 2013.

<sup>35</sup> BBC News, [Ukrainian MPs vote to oust President Yanukovich](#), 22 February 2014.

<sup>36</sup> VOA News, [Putin Calls Changes in Ukraine a 'Coup', Denies Sending Troops There](#), 4 March 2014.

<sup>37</sup> NPR, [West Is Ruled 'By The Gun,' Putin Says As He Annexes Crimea](#), 18 March 2014.

<sup>38</sup> Ilya Somin, [The Dubious Crimean Referendum](#), Washington Post, 17 March 2014.

<sup>39</sup> Resolution [A/RES/68/262](#) adopted by the General Assembly on 27 March 2014.

See also [Joint statement](#) on Crimea by President of the European Council Herman Van Rompuy and President of the European Commission José Manuel Barroso, 16 March 2014.

<sup>40</sup> OSCE Permanent Council, [Decision No. 1117](#), 21 March 2014.

<sup>41</sup> UN Security Council, [7157th meeting](#), 16 April 2014; BBC News, [Ukraine crisis: Protesters declare Donetsk 'republic'](#), 7 April 2014; TASS, [Federalization supporters in Luhansk proclaim people's republic](#), 27 April 2014. Fighting between Russian-backed separatists and Ukrainian armed forces continued to escalate, and in July 2014 a Russian surface-to-air missile downed a civilian aircraft, Malaysia Airlines flight MH17, killing all 298 passengers, BBC News, [MH17 missile 'came from Russia', Dutch-led investigators say](#), 28 September 2016.

23. After Ukrainians elected pro-European businessman, Petro Poroshenko, as President in May 2014, Ukraine, Russia and the OSCE entered talks to reach a ceasefire agreement in eastern Ukraine.<sup>42</sup> In February 2015 they concluded the Minsk II Agreement, which was endorsed by the UN Security Council, with a package of measures designed to peacefully resolve the conflict in eastern Ukraine.<sup>43</sup>

24. Notwithstanding these efforts, the conflict in eastern Ukraine has continued over an 8-year period, with Russia sending both weapons and proxy forces into eastern Ukraine.<sup>44</sup>

25. In April 2019, Ukraine elected Volodymyr Zelenskyy as President.<sup>45</sup> Days after the election, Russia began issuing Russian passports to Ukrainians in the self-proclaimed Donetsk and Luhansk People's Republics, which the EU condemned as an attack on Ukraine's sovereignty.<sup>46</sup>

### **Runup to the Invasion**

26. In September 2021, Russia organized together with Belarus a joint military exercise, Zapad-2021, which involved the deployment of over 200,000 troops to Belarus and western Russia.<sup>47</sup>

27. On 17 December 2021, Russia issued a list of security demands from NATO, including a guarantee that Ukraine be barred from NATO membership and a ban on NATO troop deployments in Eastern Europe without Russian consent.<sup>48</sup>

28. On 27 December 2021, Belarus published proposed changes to its Constitution paving the way for a referendum (passed on 27 February 2022) to base Russian nuclear forces in the country.<sup>49</sup>

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<sup>42</sup> The Guardian, [Petro Poroshenko wins Ukraine presidency, according to exit polls](#), 25 May 2014.

<sup>43</sup> [Package of measures for the Implementation of the Minsk agreements](#), 12 February 2015. See Project Co-Funded by the European Commission: [Support to the OSCE Special Monitoring Mission in Ukraine](#). UN Security Council [Meetings Coverage](#), 17 February 2015.

<sup>44</sup> US News, [Russia Has Deployed Thousands of Tanks, Troops to Ukraine, Top Official Says](#), 24 November 2017.

<sup>45</sup> BBC News, [Ukraine election: Comedian Zelensky wins presidency by landslide](#), 22 April 2019.

<sup>46</sup> Reuters, [Russia's Ukraine passport move aimed to destabilise, exacerbate conflict – EU](#), 25 April 2019.

<sup>47</sup> Reuben Johnson, [NATO's Big Concern from Russia's Zapad Exercise: Putin's Forces Linger in Belarus](#), Breaking Defense, 4 October 2021.

<sup>48</sup> NPR, [Russia demands Ukraine and other ex-Soviet republics be barred from joining NATO](#), 17 December 2021.

<sup>49</sup> William Alberque, [Belarus seeks to amend its constitution to host Russian nuclear weapons](#), IISS, 4 February 2022.

Reuters, [Belarus referendum approves proposal to renounce non-nuclear status – agencies](#), 27 February 2022.

29. In January 2022, Russia sent an estimated 100,000 troops and equipment close to the Ukrainian border with Belarus for another set of military exercises, scheduled for February.<sup>50</sup>

30. On 15 February 2022, the State Duma asked President Putin to recognize the independence of Donetsk and Luhansk People's Republics in eastern Ukraine.<sup>51</sup>

31. On 19 February 2022, the OSCE reported a "dramatic increase in kinetic activity" with over 1500 violations of the Minsk II ceasefire arrangements in eastern Ukraine.<sup>52</sup>

32. On 21 February 2022, PUTIN convened and chaired a meeting of Russia's Security Council. PUTIN began the meeting stating that he wanted to hear the Council members' opinions, but forcefully directed their remarks in support of Russia recognizing the Donetsk and Luhansk People's Republics.<sup>53</sup>

33. In a televised address on 21 February 2022, PUTIN said, "Ukraine actually never had sustainable traditions of real statehood."<sup>54</sup> This statement echoes previous statements by PUTIN and by other current and former senior officials including Prime Minister Dmitry Medvedev.

34. After the meeting, PUTIN signed decrees recognizing the separatist regions and directed the Russian Minister of Defence to deploy Russian troops into eastern Ukraine.<sup>55</sup> The UN Secretary General described Russia's recognition of the separatist regions as "a violation of the territorial integrity and sovereignty of Ukraine and inconsistent with the principles of the Charter of the United Nations."<sup>56</sup>

35. On 23 February 2022, the UN Security Council held an emergency session to urge Russia to pull back its troops from eastern Ukraine.<sup>57</sup> While the meeting was ongoing, Russia released a pre-recorded video of PUTIN announcing that he was launching a "special

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<sup>50</sup> Brian Whitmore , [Ukraine faces mounting encirclement as Russian troops enter Belarus](#), Atlantic Council, 19 January 2022.

<sup>51</sup> [Document](#) of the State Duma of the Russian Federation, 16 February 2022.

<sup>52</sup> [Statement from the OSCE Special Monitoring Mission to Ukraine](#), 18 February 2022. Reuters, [OSCE reports surge in number of explosions in east Ukraine](#), 19 February 2022.

<sup>53</sup> [Address by the President of the Russian Federation](#), 21 February 2022.

<sup>54</sup> [Address by the President of the Russian Federation](#) of 21 February 2022; Robyn Dixon, [In long speech, Putin recognizes two Ukrainian regions as independent, a potential pretext for war](#), Washington Post, 21 February 2022.

<sup>55</sup> New York Times, [Moscow orders troops to Ukraine's separatist regions after Putin recognizes their independence](#).

<sup>56</sup> [Statement](#) attributable to the Spokesperson for the Secretary-General, 21 February 2022.

<sup>57</sup> UN Security Council [Meetings Coverage](#) 23 February 2022.



military operation” in Ukraine.<sup>58</sup> PUTIN threatened any external actor who might seek to interfere with the operation that “the consequences will be such as you have never seen in your entire history.”<sup>59</sup>

36. In PUTIN’s announcement he said that he was sending in Russian troops to protect people in eastern Ukraine from genocide - a claim with no factual basis whatsoever - and that he sought the “demilitarization” of Ukraine.<sup>60</sup> (On 26 February 2022, Ukraine brought proceedings against Russia before the International Court of Justice (ICJ) for its false claims of genocide as pretext for invasion.<sup>61</sup> The ICJ held expedited oral hearings on 7-8 March 2022, but the Russian delegation did not appear.)

37. On 24 February 2022, Kremlin spokesperson Dmitry Peskov commented that “everything depends on what the commander-in-chief [PUTIN] decides” when it comes to determining the duration of the “operation.”<sup>62</sup>

### **III. THE LEGAL FRAMEWORK FOR THE CRIME OF AGGRESSION**

#### **Definition of the Crime of Aggression**

38. Article 8 bis of the Rome Statute states in full:

1. For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.

2. For the purpose of paragraph 1, “act of aggression” means 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 Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:

(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion

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<sup>58</sup> UN Security Council [Meetings Coverage](#) 23 February 2022.

<sup>59</sup> President Putin’s [address on 24 February 2022](#).

<sup>60</sup> NPR, [Putin justifies Ukraine invasion as a 'special military operation'](#), 24 February 2022.

<sup>61</sup> Ukraine’s [Request for Provisional Measures](#), ICJ, 26 February 2022.

<sup>62</sup> Interfax, [Russian president to determine Donbas operation period - Peskov](#), 24 February 2022.

or attack, or any annexation by the use of force of the territory of another State or part thereof;

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade of the ports or coasts of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

### **Elements of the Crime of Aggression**

39. According to the Elements of the Crimes under the Rome Statute,<sup>63</sup> the following must be established:

1. The perpetrator planned, prepared, initiated or executed an act of aggression.
2. The perpetrator was a person in a position effectively to exercise control over or to direct the political or military action of the State which committed the act of aggression.
3. The act of aggression – 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 Charter of the United Nations – was committed.
4. The perpetrator was aware of the factual circumstances that established that such a use of armed force was inconsistent with the Charter of the United Nations.

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<sup>63</sup> [Elements of Crimes](#) adopted at the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 2010 (International Criminal Court publication, RC/11).

5. The act of aggression, by its character, gravity and scale, constituted a manifest violation of the Charter of the United Nations.

6. The perpetrator was aware of the factual circumstances that established such a manifest violation of the Charter of the United Nations.

### **Manifest Violation of the UN Charter**

40. Article 8 bis(1) includes a high threshold for the purposes of establishing criminal jurisdiction under the Rome Statute: the act of aggression must constitute a “manifest violation” of the UN Charter based on “its character, gravity and scale.”<sup>64</sup>

41. *Character*: The use of force must involve an obvious violation of the UN Charter. The provision excludes uses of force that fall into a legally ambiguous zone or legal gray area.<sup>65</sup>

42. *Gravity and scale*: The use of force must be sufficiently intense. The provision excludes uses of force that are insufficiently severe.<sup>66</sup> The “scale” required by Article 8 bis(1) has been related to the *means* used, such as the intensity of the firepower and spatial and temporal dimensions of military operations.<sup>67</sup> The “gravity” required by Article 8 bis(1) has been related to the *effects* of the use of force, such as the amount of casualties, the level of disturbance of civic life, and the scale of property destruction.<sup>68</sup>

### **IV. INDIVIDUAL CRIMINAL ACCOUNTABILITY AND CHARGES**

43. From on or about 17 December 2021, Vladimir Vladimirovich PUTIN initiated and executed acts of aggression against Ukraine which, by their character, gravity and scale, constitute a manifest violation of the Charter of the United Nations.

44. PUTIN is individually criminally responsible for the commission of the crime of aggression by initiating and executing acts of aggression through the political and military action of the Russian state, which PUTIN effectively exercised control over or directed in his position as the President of Russia.<sup>69</sup>

45. At all times relevant to this Indictment, PUTIN was aware of the factual circumstances that established that these acts of aggression, by their character, gravity and scale, constituted a manifest violation of the Charter of the United Nations.

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<sup>64</sup> See also the [Elements of Crime](#) adopted at the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 2010 (International Criminal Court publication, RC/11).

<sup>65</sup> Claus Kreß, The State Conduct Element, in [The Crime of Aggression: A Commentary](#) (Claus Kreß and Stefan Barriga eds. Cambridge Univ. Press 2016) (Kindle Edition, at 897-899).

<sup>66</sup> Id.

<sup>67</sup> Id.

<sup>68</sup> Id.

<sup>69</sup> RS Art 25(3)*bis*, [Elements of Crimes](#) adopted at the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 2010 (International Criminal Court publication, RC/11), art. 8*bis*(1-2).

46. PUTIN was aware of the factual circumstances that established that such a use of armed force was of a *character* that violated the Charter of the United Nations. Specifically, Article 2(4) of the United Nations Charter prohibits “the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” Through his position of control, PUTIN used armed force by Russia against the sovereignty, territorial integrity and political independence of Ukraine, and he knew that he was sending the Russian military into Ukraine without the consent of the Ukrainian government.<sup>70</sup>

47. As a justification for Russia’s armed attack against Ukraine, PUTIN invoked Article 51 of the UN Charter.<sup>71</sup> In his speech on 24 February 2022, he stated that the Russian-backed Donetsk and Luhansk People’s Republics in eastern Ukraine asked Russia for assistance.<sup>72</sup> However, Russia’s recognition of these regions, which are part of Ukraine, is in itself a violation of the territorial integrity and sovereignty of Ukraine and inconsistent with the principles of the Charter.<sup>73</sup> The Donetsk and Luhansk regions of Ukraine accordingly could not give their consent to Russian military action, as only the Ukrainian government has the authority to provide such consent. Nor could Russia invoke Article 51 to act in collective self-defense on behalf of these regions because, again, only the state that is the victim of an armed attack can request such assistance and the Ukrainian government made no such request.

48. In addition to PUTIN being aware of factual circumstances that established that such a use of armed force would clearly violate the Charter of the United Nations, PUTIN was informed in advance that the use of force, including for the pretext of militarily defending Donetsk and Luhansk as independent of Ukraine, would be in violation of the UN Charter. Prior to the invasion on 24 February 2022:

- 1) On 31 January 2022, chairman of the All-Russian Officers’ Assembly, retired General-Colonel Leonid Ivashov published an appeal stating that use of military force against Ukraine would be a “criminal policy of provoking a war,” that Ukraine had a right to self-defense, and that if Putin used military force, “Russia will definitely be included in the category of countries that threaten peace and international security.”<sup>74</sup>
- 2) On 21 February 2022, the UN Secretary-General stated that he “considers the decision of the Russian Federation [on the status of Donetsk and Luhansk] to be a

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<sup>70</sup> [Elements of Crimes](#) adopted at the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 2010 (International Criminal Court publication, RC/11), art. 8*bis*(4).

<sup>71</sup> President Putin’s [address on 24 February 2022](#).

<sup>72</sup> President Putin’s [address on 24 February 2022](#).

<sup>73</sup> UN General Assembly Resolution, Aggression Against Ukraine ([A/RES/ES-11/1](#)), 2 March 2022.

<sup>74</sup> The Daily Mail, [Top hardline Russian general warns Putin NOT to invade Ukraine and accuses him of a 'criminal policy of provoking a war'](#), 7 February 2022; Anders Åslund, [Retired Russian Generals Criticize Putin Over Ukraine, Renew Call for His Resignation](#), Just Security, 9 February 2022.

violation of the territorial integrity and sovereignty of Ukraine and inconsistent with the principles of the Charter of the United Nations.”<sup>75</sup>

3) On 21 February 2022, in a joint statement, the OSCE Chairman-in-Office, OSCE Secretary General, OSCE Parliamentary Assembly President, and OSCE Parliamentary Assembly Secretary General “strongly condemned” Russia’s decision to recognize Donetsk and Luhansk as independent saying, “This step is a breach of international law and fundamental OSCE principles and runs counter to the Minsk agreements. As all OSCE participating States, Russia has undertaken commitments to respect the sovereignty and territorial integrity of others. We call on Russia to immediately rescind this decision.”<sup>76</sup>

4) On 21 February 2022 in an emergency meeting of the UN Security Council, the Under-Secretary-General for Political and Peacebuilding Affairs reiterated that the Secretary General “was clear” in his statement that the Russian Federation’s decision to recognize the independence of Donetsk and Luhansk regions “to be a violation of the territorial integrity and sovereignty of Ukraine and inconsistent with the principles of the Charter of the United Nations” and added “we very much regret this decision” and the order to deploy Russian troops in eastern Ukraine.”<sup>77</sup>

5) On 22 February 2022, the Presidents of the European Commission and the European Council stated: “The decision of the Russian Federation to recognise as independent entities and send Russian troops to certain areas of Ukraine's Donetsk and Luhansk oblasts is illegal and unacceptable. It violates international law, Ukraine's territorial integrity and sovereignty.”<sup>78</sup>

6) On 22 February 2022, the UN Secretary-General stated: “The decision of the Russian Federation to recognize the so-called “independence” of certain areas of Donetsk and Luhansk regions is a violation of the territorial integrity and sovereignty of Ukraine. Such a unilateral measure conflicts directly with the principles of the Charter of the United Nations.”<sup>79</sup>

7) On 22 February 2022, the OSCE Permanent Council convened a special meeting. A statement on behalf of the Chairmanship-in-Office, published 23 February 2022, “expressed solidarity and support to Ukraine’s territorial integrity and sovereignty” and

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<sup>75</sup> [Statement](#) attributable to the Spokesperson for the Secretary-General, 21 February 2022.

<sup>76</sup> [Joint OSCE statement on Russia’s recognition of certain areas of Ukraine’s Donetsk and Luhansk](#), 21 February 2022.

<sup>77</sup> UN Security Council, [meeting 8970](#), 21 February 2022 ([video](#)).

<sup>78</sup> [Statement by the Presidents of the European Commission and the European Council on Russian aggression against Ukraine](#), 22 February 2022.

<sup>79</sup> UN Secretary-General's [press encounter on Ukraine](#), 22 February 2022.

said Russia's decision to recognize Donetsk and Luhansk as independent "is a flagrant breach of the fundamental principles of international law."<sup>80</sup>

That said, it is only necessary to prove the perpetrator's knowledge of the factual circumstances that established that the use of armed force was in violation of the Charter of the United Nations. As the ICC Elements of Crimes states, "There is no requirement to prove that the perpetrator has made a legal evaluation as to whether the use of armed force was inconsistent with the Charter of the United Nations."<sup>81</sup>

49. PUTIN was aware of the factual circumstances that established that Russia's use of armed force was of a *gravity and scale* of a manifest violation of the UN Charter. He knew the overwhelming number of troops and materiel that the Russian military was committing to his "special military operation" inside Ukraine and was aware of the devastating effects of these military actions.<sup>82</sup> By March 3, an estimated 2 million Ukrainians had reportedly been forced to flee their homes.<sup>83</sup> This was the same day that PUTIN stated that his operation in Ukraine was going "according to plan."<sup>84</sup>

## V. COUNT 1: CRIME OF AGGRESSION

50. PUTIN's acts of aggression include:

Art 8 bis(2)(a): The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;

Art 8 bis(2)(b): Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State; and

Art 8 bis(2)(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State.

51. PUTIN's acts of aggression may also have included the following but we do not have sufficient evidence at this time to support such an allegation:

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<sup>80</sup> [Special OSCE Permanent Council meeting](#) held following Russian decision to recognize parts of Donetsk and Luhansk regions of Ukraine as independent, Vienna, 23 February 2022.

<sup>81</sup> [Elements of Crimes](#) adopted at the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 2010 (International Criminal Court publication, RC/11).

<sup>82</sup> [Elements of Crimes](#) adopted at the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 2010 (International Criminal Court publication, RC/11), art. 8bis(5-6).

<sup>83</sup> [Human Rights Council](#) Begins Urgent Debate on Situation of Human Rights in Ukraine Stemming from the Russian Aggression, 3 March 2022.

<sup>84</sup> Reuters, [Putin tells Macron Russia will achieve its goals in Ukraine](#), 3 March 2022.

Art 8 bis(2)(c) The blockade of the ports or coasts of a State by the armed forces of another State;

Art 8 bis(2)(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

## **Invasion and attack**

**Initiating and executing the invasion of and attack on Ukraine by Russian armed forces against the sovereignty, territorial integrity, or political independence of Ukraine, which, by its character, gravity and scale, constitute a manifest violation of the Charter of the United Nations.**<sup>85</sup>

52. In the early hours of 24 February 2022, Russian troops entered Ukraine by land, air, and sea to execute PUTIN's "special military operation."<sup>86</sup>

53. On the first day of the operation, Russian troops crossed Ukraine's northern border from Belarus toward the Ukrainian capital of Kyiv.<sup>87</sup> They reached the city of Cherniv and seized the Chernobyl exclusion zone.<sup>88</sup> They crossed Ukraine's northeastern border advancing toward the country's second-largest city Kharkiv.<sup>89</sup> Russian forces also moved from Crimea toward the southern city of Kherson,<sup>90</sup> and landed in the port city of Odessa.<sup>91</sup>

54. On 25-26 February 2022, the Russian military continued pushing into Ukraine across the country's northern, northeastern, and southern borders.<sup>92</sup> Russian forces entered the outskirts of Kyiv.<sup>93</sup>

55. On 27 February 2022, Russian forces in the south advanced on the towns of Zaporizhzhia and Mariupol.<sup>94</sup>

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<sup>85</sup> [Rome Statute](#) of the International Criminal Court, art. 8 bis(2)(a) and UN General Assembly [Resolution 3314 \(XXIX\)](#), 14 December 1974, art. 3(a).

<sup>86</sup> President Putin's [address on 24 February 2022](#); New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>87</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>88</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>89</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>90</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>91</sup> UN High Commissioner for Refugees [Statement on 24 February](#).

<sup>92</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>93</sup> Ruby Mellen, Washington Post, [In videos and photos, a timeline of Russia's war on Ukraine](#), Washington Post, 8 March 2022; New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

<sup>94</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#).

56. On 28 February 2022, Russia continued to push for more territorial control in Ukraine, moving forces to the towns west of Kyiv, and advancing in southern Ukraine to capture the southeastern town of Berdyansk.<sup>95</sup>

57. On 2 March 2022, Russian forces captured the southern city of Kherson.<sup>96</sup>

58. On 5-7 March 2022, Russian forces further advanced on the southern cities of Mariupol and Mykolaiv, and took control of the Zaporizhzhia nuclear plant.<sup>97</sup>

59. By invading Ukraine across its northern, northeastern, and southern borders, Russian forces, pursuant to PUTIN's "special military operation," acted against the sovereignty and territorial integrity of Ukraine. PUTIN's deployment of troops and materiel of Russia's land, sea and air forces along three lines of invasion in concert was, by its character, gravity and scale a manifest violation of the UN Charter's Art 2(4) prohibition on the use of force against the territorial integrity of another state.

60. The Russian acts of aggression in the preceding paragraphs were by their *character* an obvious breach of the prohibition of use of force under Article 2(4) of the UN Charter. An overwhelming majority of states independently condemned the Russian invasion as an act of aggression.<sup>98</sup> In an Emergency Special Session held on 2 March 2022, the UN General Assembly overwhelmingly approved a resolution, "Aggression Against Ukraine."<sup>99</sup> The resolution stated that the UN General Assembly "deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter." On 4 March 2022, members of the International Law Association issued a Statement saying, "We condemn in the strongest possible terms the Russian Federation's aggression against Ukraine," and referring to Russia's use of force as "a clear violation of Article 2(4) of the UN Charter and an act of aggression."<sup>100</sup>

61. Russian acts of aggression in the preceding paragraphs were of sufficient *scale* as

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<sup>95</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#); Ruby Mellen, [In videos and photos, a timeline of Russia's war on Ukraine](#), Washington Post, 8 March 2022; [Russia invades Ukraine: Graphics](#), Reuters, 8 March 2022.

<sup>96</sup> NPR, [Russian forces have captured the southern Ukrainian port city of Kherson](#), 3 March 2022.

<sup>97</sup> [Russia invades Ukraine: Graphics](#), Reuters, 8 March 2022. Reuters, ['We are being destroyed,' says Ukraine's Mariupol under Russian siege](#), 3 March 2022.

<sup>98</sup> Alonso Gurmendi, [Tracking State Reactions to Russia's Invasion of Ukraine: A Resource for Research](#), *Opinio Juris*, 4 March 2022 ([Chart State Reactions to Russian Invasion of Ukraine](#)).

<sup>99</sup> UN General Assembly Resolution, Aggression Against Ukraine ([A/RES/ES-11/1](#)), 2 March 2022.

<sup>100</sup> [Statement by Members of the International Law Association Committee on the Use of Force](#), Just Security March 4, 2022 (translations in Albanian, Arabic, Bahasa Indonesian, Bahasa Malaysian, Burmese, Chinese, Czech, Dutch, English, Farsi, Finnish, French, Georgian, German, Greek, Italian, Japanese, Korean, Norwegian, Polish, Portuguese, Russian, Serbian, Slovenian, Spanish, Swedish, Tigrinya (Eritrea), Turkish, and Ukrainian).



demonstrated by the extensive territorial invasion, the high number of troops and the broad range of weapon systems Russian forces employed in and against Ukraine since 24 February 2022.

62. Russian acts of aggression in the preceding paragraphs were of sufficient *gravity* as demonstrated by the large territorial invasion conducted by Russian forces, the resulting destruction of infrastructure and human casualties, as well as the over 2.3 million refugees fleeing Ukraine during the first two weeks of the war.<sup>101</sup>

### **Bombardment or use of any weapons**

**Initiating and executing the bombardment and use of weapons against Ukraine by Russian armed forces against the sovereignty, territorial integrity, or political independence of Ukraine, which, by its character, gravity and scale, constitute a manifest violation of the Charter of the United Nations.**<sup>102</sup>

63. In the early hours of 24 February 2022, an estimated 100 Russian cruise, ballistic, and sea-launched missiles struck military targets inside Ukraine to carry out PUTIN’s “special military operation.”<sup>103</sup> Russian airstrikes targeted cities, airports, and military installations across Ukraine.<sup>104</sup>

64. As the invasion progressed, Russia began extensive shelling of major cities, including the capital Kyiv, Ukraine’s second largest city Kharkiv, and the southern port city of Kherson.<sup>105</sup>

65. On 27 February 2022, Russian forces entered Kharkiv. The next day, Russian forces launched rockets against civilian populated areas of the city.<sup>106</sup> Russian attacks continued through 3 March 2022, with artillery, air, and missile bombardments devastating the city.<sup>107</sup>

66. On the evening of 27 February 2022, Russian forces lodged heavy artillery fire against Kherson, and Russian forces entered the city the following day.<sup>108</sup> Explosions caused by

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<sup>101</sup> UNHCR, [Operational Data Portal: Ukraine Refugee Situation](#), 9 March 2022 at 12.00CET the number of refugees fleeing Ukraine since 24 February was at 2,316,002.

<sup>102</sup> [Rome Statute](#) of the International Criminal Court, art 8 bis(2)(b); UN General Assembly [Resolution 3314 \(XXIX\)](#), 14 December 1974, art. 3(b).

<sup>103</sup> Institute for the Study of War, [Ukraine Conflict Updates](#).

<sup>104</sup> New York Times [Ukraine Maps](#). Mason Clark, George Barros, and Kateryna Stepanenko, [Russian Offensive Campaign Assessment](#), Institute for the Study of War, 24 February 2022.

<sup>105</sup> OSCE Special Monitoring Mission to Ukraine (SMM), [Daily Report 44/2022](#), 25 February 2022.

<sup>106</sup> Valerie Hopkins, Steven Erlanger and Michael Schwartz, [Russian Rocket Barrage Kills Civilians as First Talks Show No Progress](#), New York Times, 28 February 2022.

<sup>107</sup> Aleksandar Vasovic, [Russia bombards Ukraine urban areas as armed convoy stalls](#), Reuters, 2 March 2022; Mason Clark, George Barros, and Kateryna Stepanenko, [Russian Offensive Campaign Assessment](#), Institute for the Study of War, 3 March 2022; Yulia Gorbunova, [Under Shelling in Kharkiv: People with Disabilities Need to Evacuate Safely](#), Human Rights Watch, 7 March 2022; [Ukraine's second city heavily bombed as U.N. assembly denounces Russia](#), Reuters, 2 March 2022.

<sup>108</sup> OSCE Special Monitoring Mission to Ukraine (SMM), [Daily Report 47/2022](#). 28 February 2022.

multiple rocket launch systems as well as heavy machine gun fire continued through the evening of 1 March 2022.<sup>109</sup> On 2 March 2022, Russian forces seized Kherson.<sup>110</sup>

67. On 1 March 2022, Russian forces bombed the main television and radio tower in Kyiv, as well as the World War II Jewish memorial site Babyn Yar.<sup>111</sup> Five days later, Russian forces advancing on Kyiv fired mortar shells at an evacuation crossing point with civilians fleeing the fighting.<sup>112</sup> By 7 March 2022, Russian forces were apparently completing preparations to assault Kyiv from the east and west attacking the city with air, artillery, and missile fire.<sup>113</sup>

68. By Russia's bombardment of three major Ukrainian cities and surrounds, pursuant to PUTIN's "special military operation," the Russian military acted against the sovereignty, territorial integrity, and political independence of Ukraine. This bombardment and shelling by its character, gravity and scale, constitute a manifest violation of the UN Charter's Art 2(4) prohibition on the use of force against the territorial integrity and political independence of another state.

69. The Russian acts of aggression in the preceding paragraphs were by their *character* an obvious breach of the prohibition of use of force under Article 2(4) of the UN Charter. An overwhelming majority of states independently condemned the Russian invasion as an act of aggression.<sup>114</sup> In an Emergency Special Session held on 2 March 2022, the UN General Assembly overwhelmingly approved a resolution, "Aggression Against Ukraine."<sup>115</sup> The resolution stated that the UN General Assembly "deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter." On 4 March 2022, members of the International Law Association issued a Statement saying, "We condemn in the strongest possible terms the Russian Federation's aggression against Ukraine," and referring to Russia's use of force as "a clear violation of Article 2(4) of the UN Charter and an act of aggression."<sup>116</sup>

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<sup>109</sup> OSCE, [Daily Report](#), 2 March 2022.

<sup>110</sup> Michael Schwartz and Richard Pérez-Peña, [First Ukraine City Falls as Russia Strikes More Civilian Targets](#), New York Times, 2 March 2022.

<sup>111</sup> [Russia bombards a Kyiv TV tower and the Babyn Yar Holocaust memorial site](#), NPR, 1 March 2022; Aleksandar Vasovic, [Russia bombards Ukraine urban areas as armed convoy stalls](#), Reuters, 2 March 2022.

<sup>112</sup> Lynsey Addario, [Russian forces fire on evacuees, leaving 4 people dead outside Kyiv](#). New York Times, 6 March 2022.

<sup>113</sup> Fredrick W. Kagan, George Barros, and Kateryna Stepanenko, [Russian Offensive Campaign Assessment](#), Institute for the Study of War, 7 March 2022.

<sup>114</sup> Alonso Gurmendi, [Tracking State Reactions to Russia's Invasion of Ukraine: A Resource for Research](#), *Opinio Juris*, 4 March 2022 ([Chart State Reactions to Russian Invasion of Ukraine](#)).

<sup>115</sup> UN General Assembly Resolution, Aggression Against Ukraine ([A/RES/ES-11/1](#)), 2 March 2022.

<sup>116</sup> [Statement by Members of the International Law Association Committee on the Use of Force](#), Just Security March 4, 2022 (translations in Albanian, Arabic, Bahasa Indonesian, Bahasa Malaysian, Burmese, Chinese, Czech, Dutch, English, Farsi, Finnish, French, Georgian, German, Greek, Italian, Japanese, Korean, Norwegian, Polish, Portuguese, Russian, Serbian, Slovenian, Spanish, Swedish, Tigrinya (Eritrea), Turkish, and Ukrainian).

70. The Russian acts of aggression in the preceding paragraphs were of sufficient *scale* as demonstrated by the wide-spread use of cruise, ballistic, and sea-launched missiles, artillery fire, and other weapons systems Russia employed in and against Ukraine since 24 February 2022.

71. The Russian acts of aggression in the preceding paragraphs were of sufficient *gravity* as demonstrated by the use of the bombardments and other weapons in and against Ukraine resulting in the destruction of infrastructure and human casualties, as well as the over 2.3 million refugees fleeing Ukraine during the first two weeks of the war.<sup>117</sup>

### **Attacks on land, sea or air forces**

**Initiating and executing attacks by Russian armed forces on Ukrainian land, sea or air forces, against the sovereignty, territorial integrity, or political independence of Ukraine, which, by its character, gravity and scale, constitute a manifest violation of the Charter of the United Nations.**<sup>118</sup>

72. On 24 February 2022, Russian ballistic missiles, cruise missiles and sea-launched missiles targeted a broad range of Ukraine's military installations and air-defense targets.<sup>119</sup> Russia's military said it had destroyed 74 Ukrainian military targets on the first day, including airfields, command posts, a naval base, air-defense radar stations, combat helicopters and drones.<sup>120</sup>

73. On 28 February 2022, the UN Secretary-General stated that the fighting in Ukraine "is raging across the country, from air, land and sea...Russian missile and air bombardments are pounding Ukrainian cities day and night."<sup>121</sup>

74. On 6 March 2022, Russia's defence ministry reported that Russian armed forces had attacked over 2,200 Ukrainian military targets, including command points, military communication systems, air defence weapon systems, radar stations, planes, tanks, armored combat vehicles, launch rocket systems, artillery, military vehicles and drones.<sup>122</sup>

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<sup>117</sup> UNHCR, [Operational Data Portal: Ukraine Refugee Situation](#), 9 March 2022 at 12.00CET the number of refugees fleeing Ukraine since 24 February was at 2,316,002.

<sup>118</sup> [Rome Statute](#) of the International Criminal Court, art. 8 bis(2)(d) and UN General Assembly [Resolution 3314 \(XXIX\)](#), 14 December 1974, art. 3(d).

<sup>119</sup> New York Times, [Maps: Tracking the Russian Invasion of Ukraine](#); Mason Clark, George Barros, and Kateryna Stepanenko, Institute for the Study of War, [Russian Offensive Campaign Assessment](#), 24 February 2022.

<sup>120</sup> The Moscow Times, [Russia Says Destroyed Over 70 Ukraine Military Targets](#), 24 February 2022; Russia Defense Ministry spokesperson statement on [YouTube](#), 24 February 2022.

<sup>121</sup> Secretary General, [Remarks](#) to the General Assembly Emergency Special Session on Ukraine, 28 February 2022.

<sup>122</sup> [TASS Russian News Agency](#), 6 March 2022.

75. Russian attacks on Ukrainian land, sea and air forces, pursuant to PUTIN’s “special military operation,” acted against the sovereignty, territorial integrity, and political independence of Ukraine. These attacks by their character, gravity and scale constitute a manifest violation of the UN Charter’s Art 2(4) prohibition on the use of force against the territorial integrity and political independence of another state.

76. The Russian acts of aggression in the preceding paragraphs were by their *character* an obvious breach of the prohibition of use of force under Article 2(4) of the UN Charter. An overwhelming majority of states independently condemned the Russian invasion as an act of aggression.<sup>123</sup> In an Emergency Special Session held on 2 March 2022, the UN General Assembly overwhelmingly approved a resolution, “Aggression Against Ukraine.”<sup>124</sup> The resolution stated that the UN General Assembly “deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter.” On 4 March 2022, members of the International Law Association issued a Statement saying, “We condemn in the strongest possible terms the Russian Federation’s aggression against Ukraine,” and referring to Russia’s use of force as “a clear violation of Article 2(4) of the UN Charter and an act of aggression.”<sup>125</sup>

77. Russian acts of aggression in the preceding paragraphs were of sufficient *scale*, because they targeted a broad range of Ukrainian military installations and Ukrainian troops since 24 February 2022 through the use of a wide range of weapons systems.

78. Russian acts of aggression in the preceding paragraphs were of sufficient *gravity*, as demonstrated by the destruction of both states’ military facilities and forces, which enabled the Russian forces to take control of significant parts of the Ukrainian territory, as well as the over 2.3 million refugees fleeing Ukraine during the first two weeks of the war.<sup>126</sup>

## CONCLUSION

For the foregoing reasons we request the affirmation of the Indictment.

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<sup>123</sup> Alonso Gurmendi, [Tracking State Reactions to Russia’s Invasion of Ukraine: A Resource for Research](#), *Opinio Juris*, 4 March 2022 ([Chart State Reactions to Russian Invasion of Ukraine](#)).

<sup>124</sup> UN General Assembly Resolution, Aggression Against Ukraine ([A/RES/ES-11/1](#)), 2 March 2022.

<sup>125</sup> [Statement by Members of the International Law Association Committee on the Use of Force](#), Just Security March 4, 2022 (translations in Albanian, Arabic, Bahasa Indonesian, Bahasa Malaysian, Burmese, Chinese, Czech, Dutch, English, Farsi, Finnish, French, Georgian, German, Greek, Italian, Japanese, Korean, Norwegian, Polish, Portuguese, Russian, Serbian, Slovenian, Spanish, Swedish, Tigrinya (Eritrea), Turkish, and Ukrainian).

<sup>126</sup> UNHCR, [Operational Data Portal: Ukraine Refugee Situation](#), 9 March 2022 at 12.00CET the number of refugees fleeing Ukraine since 24 February was at 2,316,002.