



Letter no. 610 of 21 June 2024

**Ministers of Foreign Affairs of the Core Group on
accountability for the crime of aggression
against Ukraine**

Your Excellencies,

First and foremost, we would like to take this opportunity to assure you of our highest respect and to express our gratitude for all the support provided to Ukraine, particularly in its resistance against the illegal aggression by the Russian Federation.

Since the onset of the full-scale invasion of Ukraine, 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 (hereinafter referred to as "the Special Tribunal"). This initiative aims to fill the gap in international accountability mechanisms and ensure comprehensive liability for international crimes.

Over the past two 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 endeavor. 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 has yet to be established.

The legal community of Ukraine recognizes that prosecuting the crime of aggression, unprecedented since World War II, presents a significant challenge to the world. Not only must relevant mechanisms for addressing the Russian aggression against Ukraine be created from scratch, but also the perpetrator in this case is the government of one of the world's largest countries with nuclear capabilities.

At the same time, the world's response to the war waged by the Russian Federation against Ukraine will shape the future of international justice and security systems. Failure to address the crime of aggression in accordance with the UN Charter in this particular situation risks rendering it a legal fiction.

In light of the above, we urge the member states of the Core Group to expedite their efforts in establishing the Special Tribunal. We are keenly aware that prolonged delays in the international community's action to create the Special Tribunal increase the likelihood of the Russian leadership evading accountability. Given the anticipated political developments worldwide in 2024, further postponement in making a principled decision on the establishment of the Special Tribunal risks losing momentum.

Furthermore, we wish to address the format of the Special Tribunal. The crime of aggression committed by the Russian Federation violates the erga omnes obligations of all members of the international community to ensure international peace and security. Therefore, it constitutes an international crime that undermines the foundations of the international legal order established in the aftermath of World War II. A crime of such magnitude warrants a proportionate response – the establishment of a proper international tribunal based on a treaty between supporting states. A tribunal rooted solely in Ukrainian jurisdiction, currently under discussion by the Core Group, not only contradicts the Ukrainian Constitution but also diminishes the gravity of the crime of aggression by the Russian Federation. Additionally, such a tribunal would encounter numerous challenges, primarily concerning head-of-state immunity and the enforcement of its decisions.

In view of the above, we welcome the adoption by the Committee of Ministers of the Council of Europe of the decision [CM/Del/Dec\(2024\)1497/10.2](#) authorising the Secretary General of the Council of Europe to prepare any necessary documents to contribute to consultations within the Core Group on a possible draft Agreement between the Council of Europe and the Government of Ukraine on the Establishment of a Special Tribunal for the Crime of Aggression of the Russian Federation against Ukraine.

We would also like to kindly mention that over the past two years following the full-scale invasion, various experts in international law have developed comprehensive concepts on possible models of the International Special Tribunal and other relevant details. Notably, concepts such as the [Global Accountability Network](#) and the [Yale Club](#) offer thorough proposals for the establishment of the Special Tribunal.

In light of the above, we call upon the member states of the Core Group to instruct their respective governments to enter into a treaty with the Government of Ukraine for the

establishment of the International Special Tribunal for the Crime of Aggression against Ukraine at the earliest opportunity.

We stand ready to provide any support that the Core Group may require in this process.

Signatories:

The Ukrainian Bar Association

Center for Civil Liberties

Ukrainian Helsinki Human Rights Union

ZMINA

DEJURE Foundation

Centre for Democracy and Rule of Law

International Bar Association

Global Accountability Network

Public International Law and Policy Group

Mykola Stetsenko, President

Oleksandra Matviichuk, Head

Oleksandr Pavlichenko, Executive Director

Tetiana Pechonchyk, Head of Board

Maryna Khromykh, Executive Director

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