

# MEMORANDUM FOR THE PROSECUTION OF THE CRIME OF AGGRESSION COMMITTED AGAINST UKRAINE

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# INTRODUCTION

1. The crime of aggression stands as one of the most serious breaches of international law, representing a fundamental violation of the sovereignty and territorial integrity of States. The present Memorandum for Prosecution provides a comprehensive analysis of the acts of aggression committed by the Russian Federation against Ukraine in three major phases, chronologically:
  - the occupation of Crimea beginning in February 2014,
  - the intervention in Donbas<sup>1</sup> from April 2014, and
  - the full-scale invasion initiated in February 2022, which continues to this day.
2. These acts constitute clear violations of Article 2(4) of the United Nations (UN) Charter, which prohibits the “threat or use of force against the territorial integrity or political independence of any state.” The Russian Federation’s use of armed force against Ukraine has manifested in multiple forms recognized under Article 8 *bis* of the Rome Statute as acts of aggression, including invasion, bombardment, blockade, and attacks on Ukrainian armed forces.
3. While the International Criminal Court (ICC) lacks jurisdiction over the crime of aggression in the context of the situation in Ukraine due to the Russian Federation’s non-ratification of the Kampala Amendments, Article 8 *bis* retains legal relevance as its definition is widely regarded as a reflection of customary international law. Therefore, Article 8 *bis* is fundamental to the legal interpretation and application of the crime of aggression beyond the confines of the ICC’s jurisdiction.
4. The Russian Federation’s actions have resulted in extensive civilian casualties, population displacement, and widespread destruction of critical infrastructure across Ukraine. Russia’s attempts to justify its actions through claims of self-defense or protection of Russian nationals have no valid basis in international law. No legitimate exception to the prohibition against the use of force applies in these circumstances.
5. This Memorandum for Prosecution sets out how Russia’s conduct against Ukraine constitutes the crime of aggression and represents a continuous pattern of unlawful use of force from 2014 until today. It builds on a Model Indictment published by Open Society Justice Initiative in April 2022.<sup>2</sup>

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1 Donbas is a historical term referring to an area of eastern Ukraine’s Donets Basin (Donbas) in Luhansk and Donetsk Oblasts.

2 Open Society Justice Initiative, “Model Indictment for the Crime of Aggression Committed against Ukraine”, May 9, 2022, <https://www.justiceinitiative.org/publications/model-indictment-for-the-crime-of-aggression-committed-against-ukraine>.

6. The factual and legal analysis presented herein establishes that Russia's actions amount to "manifest violations" of the UN Charter by virtue of their character, gravity, and scale. As such, they fall within the scope of the crime of aggression as defined in Article 8 *bis* and may give rise to individual criminal responsibility. Under the Rome Statute, individuals in positions of authority who planned, prepared, initiated, or executed these acts of aggression bear individual criminal responsibility for committing the crime of aggression. This includes those who participated in high-level strategic meetings, enacted enabling legislation or decrees, cultivated pretexts for military action, amassed troops at borders, and commanded forces during the execution of these aggressive acts. The evidence demonstrates that such individuals were aware that Russia's use of armed force was inconsistent with the UN Charter and constituted a manifest violation of its principles.
7. This Memorandum for Prosecution details how specific individuals contributed to Russia's acts of aggression, including through their use of UN Security Council meetings and other high-level forums to justify and legitimize unlawful actions already undertaken. These individuals prepared for aggression by establishing false justifications, amassing troops, and engineering incidents as pretexts; initiated aggression through declarations of hostilities and the first use of force; and executed these acts by commanding armed forces and governing occupied territories. Through these actions, they have incurred individual criminal responsibility for committing the crime of aggression under international law.
8. This Memorandum for Prosecution also provides information on the complicit roles of Belarus's leadership who knowingly provided substantial assistance to Russia's full-scale invasion of Ukraine. Since February 2022, Belarusian leadership—under President Alexander Lukashenko—has played a central role in facilitating Russia's crime of aggression against Ukraine by providing its territory, infrastructure, and logistical support for the invasion. This included hosting over 30,000 Russian troops, enabling missile launches from its soil, and permitting the movement of Russian armored units, artillery, and supplies through its rail and road networks. Joint military exercises, the 2021 Union State Military Doctrine, and the construction of forward operating infrastructure—including field hospitals and staging areas—demonstrate Belarus's coordinated participation in the planning and execution of Russia's unlawful use of force. These actions, collectively, amount to complicity in the crime of aggression as defined under Article 8 *bis* of the Rome Statute.

# DEFINITION OF THE CRIME OF AGGRESSION

9. Aggression is the use of armed force against the sovereignty, territorial integrity, and political independence of another country.

## LEGAL DEFINITION

10. **Rome Statute Definition:** The crime of aggression is defined and criminalized under Article 8 *bis* of the Rome Statute of the ICC (the “Rome Statute”), which was adopted by States Parties at the 2010 Kampala Review Conference and activated by Resolution ICC-ASP/16/Res.5, adopted by the Assembly of States Parties on December 14, 2017.<sup>3</sup>
11. Article 8 *bis* (1) of the Rome Statute defines the crime as “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.”<sup>4</sup> An “act of aggression” itself is defined in Article 8 *bis* (2) as the use of armed force by a State against the sovereignty, territorial integrity, or political independence of another State, in contravention of the UN Charter.
12. **Perpetrators:** Article 8 *bis* (1) establishes the crime of aggression as a leadership crime, confined to individuals in positions of “effective control” over a State’s political or military apparatus. The perpetrator must not necessarily make the actual decisions on war and peace but must take part in activities of major significance in preparing, initiating, or waging a war of aggression. As such, the focus is on effective control, whether *de jure* or *de facto*, rather than formal title alone.
13. **Acts of aggression:** Article 8 *bis* (2) of the Rome Statute provides a non-exhaustive list of acts, which, regardless of a declaration of war, qualify as an act of aggression in accordance with the UN General Assembly Resolution 3314 (XXIX) of December 14, 1974:
  - 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.<sup>5</sup>

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3 Rome Statute of the International Criminal Court (adopted July 17, 1998, entered into force July 1, 2002) 2187 UNTS 90, art. 15 *bis*, <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

4 Rome Statute, art. 8 *bis* (1).

5 Elements of Crimes, art. 8 *bis*(2)(a), RC/11, *Official Records of the Review Conference of the Rome Statute of the International Criminal Court*, Kampala, May 31 to June 11, 2010.

- 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.
14. It bears underscoring again that these acts qualify as acts of aggression regardless of a declaration of war. However, planning and preparation of a war of aggression are criminal only if they actually result in the initiation of hostilities.<sup>6</sup>
15. **Mental element:** The planning, preparation, initiating, or waging of aggressive war must be committed intentionally. The ICC's Elements of Crimes make it clear that the perpetrator must have knowledge of the actual circumstances that make the use of the armed force incompatible with, and lead to, a manifest violation of the UN Charter.<sup>7</sup>
16. The negotiations of the Rome Statute's crime of aggression provisions make clear that the act must be committed "intentionally and knowingly," consistent with Article 30 of the Statute.<sup>8</sup> The Commentary to the 1996 International Law Commission Draft Code of Crimes explained that "[t]he mere material fact of participating in an act of aggression is, however, not enough to establish the guilt of a leader or organizer. Such participation must have been intentional and have taken place knowingly as part of a plan or policy of aggression." While initial proposals included language that the crime of aggression must be committed "intentionally and knowingly," it was ultimately deleted from the draft because the default provision of Article 30 was considered to apply. Thus, general principles of international criminal law on the mental element of the crime apply.<sup>9</sup>

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6 Elements of Crimes, art. 8 *bis*, Commentary (specifying that criminal responsibility for planning and preparation requires that the act lead to the commencement of hostilities).

7 Elements of Crimes for art. 8 *bis*, numsnos. 4 and 6.

8 Roger Clark, "Individual Conduct," in *The Crime of Aggression: A Commentary*, ed. Claus Kreß and Stefan Barriga (Cambridge University Press, 2017), 585–87.

9 *Ibid.*

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## MANIFEST VIOLATION OF THE UN CHARTER BY ITS CHARACTER, GRAVITY, AND SCALE

17. Article 2(4) of the UN Charter prohibits “the threat or use of force against the territorial integrity of political independence of any state, or in any other matter inconsistent with the Purpose of the United States.”
18. Article 8 *bis* (1) of the Rome Statute includes a threshold clause, limiting individual criminal responsibility to acts of aggression that represent a “manifest violation” of the UN Charter.
19. Acts of aggression may constitute a “manifest violation” of the UN Charter because of their “character, gravity, and scale,” according to the meaning of Article 8 *bis* (1): A “manifest violation” of the UN Charter as used in Article 8 *bis* (1) requires that at least two of the three criteria—character, gravity, and scale—meet the threshold of being manifest, meaning objectively evident and sufficiently substantial, for the entire act to qualify as a manifest violation.<sup>10</sup>
20. **Character:** Acts of aggression, by their character, must constitute an evident violation of the UN Charter. The criterion of “manifest violation” applies to uses of force that indisputably violate the prohibition of the use of force in international law enshrined in Article 2(4) of the UN Charter.<sup>11</sup>
21. The acts of aggression must also be a manifest violation by their gravity and scale. Thus, the use of force must not only be obviously unlawful but also be of a certain intensity.<sup>12</sup>
22. **Gravity:** The “gravity” component relates to the effects of the use of force, which could include the number of human casualties on all sides, the scope of the disturbance of common life within the victim State, and the level of property destruction on all sides.<sup>13</sup>
23. **Scale:** The “scale” component relates to the means used, including the intensity of the people and firepower used.<sup>14</sup>

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10 *Understanding on the Crime of Aggression*, adopted by the Assembly of States Parties on June 11, 2010, *Official Records of the Review Conference of the Rome Statute of the International Criminal Court*, Kampala, May 31–June 11, 2010, RC/Res 6, para. 3 (providing that an act of aggression constitutes a manifest violation of the UN Charter if at least two of the three criteria of character, gravity, and scale meet the manifest threshold).

11 United Nations General Assembly Resolution 3314 (XXIX), *Definition of Aggression*, December 14, 1974, UN Doc A/RES/3314(XXIX) (which serves as a foundational customary international law reference for the definition of acts of aggression).

12 Claus Kreß, “The State Conduct Element,” in *The Crime of Aggression: A Commentary*, ed. Claus Kreß and Stefan Barriga (Cambridge University Press, 2017), 510–11.

13 Kreß, “The State Conduct Element,” 520, based on the separate opinion of Judge Simma in the *Armed Activities* case, at para 2.

14 Kreß, “The State Conduct Element,” 520.

## ACTS OF AGGRESSION

24. Under Article 8 *bis* (2)(a), the acts of aggression can include invasion, occupation (including by proxy), or annexation.
25. **Invasion:** In line with the jurisprudence of the Nuremberg International Military Tribunal in the *High Command* and *Ministries* cases in the context of crimes against peace and “wars of aggression,”<sup>15</sup> an act of invasion in this context requires that “the armed forces of one state cross the borders of another state with hostile intent, irrespective of whether or not shots are fired or actual combat occurs. . . . The term ‘invasion’ implies a military operation of a certain scale.”<sup>16</sup>
26. **Occupation:** Military occupation may qualify as an act of aggression even if no physical damage is inflicted.<sup>17</sup> Instead, military occupation under international law, as defined in Article 42 of the Hague Regulations, requires that a territory be “actually placed under the authority of the hostile army.”<sup>18</sup> This definition of military occupation was adopted by the International Court of Justice (ICJ) in the *Armed Activities* case.<sup>19</sup>
27. The concept of effective control has developed in international jurisprudence and legal scholarship to provide clarity as to the nature of the authority to be exerted by the occupying power. The European Court of Human Rights (ECtHR) elaborated in its judgment in *Chiragov and Others v. Armenia*:
- [O]ccupation within the meaning of the 1907 Hague Regulations exists when a State exercises actual authority over the territory, or part of the territory, of an enemy State. The requirement of actual authority is widely considered to be synonymous to that of effective control.<sup>20</sup>
28. The International Committee of the Red Cross (ICRC) in its 2020 Commentary on the Geneva Conventions notes:
- It is self-evident that occupation implies some degree of control by hostile troops over all or part of a foreign territory in lieu of the territorial sovereign. However, under humanitarian law, it is the effectiveness of that control that sets off the

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15 *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10*, vol. XI, 462, 485; vol. XIV, 314, 331.

16 Kreß, “The State Conduct Element,” 439.

17 Kreß, “The State Conduct Element,” 440.

18 Convention (IV) Respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (adopted October 18, 1907, entered into force January 26, 1910).

19 *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda)* (Judgment) [2005] ICJ Rep., p. 168, para. 173; separate opinion of Judge Kooijmans 306, para. 63. See also Kreß, “The State Conduct Element,” 440–41.

20 *Chiragov and Others v. Armenia*, App. No. 13216/05, European Court of Human Rights (ECtHR), June 16, 2015, para. 96.

application of the law of occupation. Indeed, only effective control will allow the foreign troops to apply the law of occupation. In this regard, ‘effective control’ is an essential concept as it substantiates and specifies the notion of ‘authority’ lying at the heart of the definition of occupation contained in Article 42 of the Hague Regulations. Accordingly, effective control is the main characteristic of occupation as there cannot be occupation of a territory without effective control exercised over it by hostile foreign forces.<sup>21</sup>

29. The ICRC suggests an effective control test for determining whether a situation qualifies as an occupation in the context of humanitarian law, comprising the following cumulative conditions:
- The armed forces of a State are physically present in a foreign territory without the consent of the effective local government in place at the time of the invasion;
  - The effective local government in place at the time of the invasion has been or can be rendered substantially or completely incapable of exerting its powers by virtue of the foreign forces’ unconsented-to presence; and
  - The foreign forces are in a position to exercise authority over the territory concerned (or parts thereof) in lieu of the local government.<sup>22</sup>
30. **Annexation:** To qualify as an act of aggression, the annexation of a territory must result from a use of force. The Pictet Commentary on Geneva Convention (IV) on Civilians, published by the ICRC in 1958, clarifies that annexation differs from occupation in that it is not temporary, but instead involves the occupying power acquiring all or part of the occupied territory and incorporating it as its own territory. The ICRC further specifies that the use of the term “annexation” to refer to an occupying power’s entrenchment of its position in a situation resulting from war does not imply that the occupying power had the right to acquire sovereignty over the territory.<sup>23</sup>

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21 International Committee of the Red Cross (ICRC), *Commentary on the Third Geneva Convention: Convention (III) Relative to the Treatment of Prisoners of War* (Cambridge University Press, 2020), para. 336, [https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-2/commentary/2020#108\\_B](https://ihl-databases.icrc.org/en/ihl-treaties/gciii-1949/article-2/commentary/2020#108_B).

22 ICRC, *Commentary on the Third Geneva Convention*, para. 338.

23 ICRC, *Commentary on the Fourth Geneva Convention: Convention (IV) Relative to the Protection of Civilian Persons in Time of War* (ICRC 1958), paras. 273–76, <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-47/commentary/1958?activeTab=undefined>.

31. Both the prohibition of aggression and the prohibition on the use of force are widely regarded as *jus cogens* norms of international law.<sup>24</sup> The prohibition against annexation, as a specific manifestation of unlawful force, likewise enjoys *jus cogens* status, as reflected in the UN General Assembly's unanimous declaration:

[T]he territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force. No territorial acquisition resulting from the threat or use of force shall be recognized as legal.<sup>25</sup>

32. Thus, any territorial acquisition or annexation resulting from the use of force has no legal validity and is to be considered null and void.<sup>26</sup>

33. **Other constitutive acts:** As outlined in the preceding Section, Article 8 *bis* (2) criminalizes “other constitutive acts,” *inter alia*:

- Bombardment, under *litera* (b), which may be described as “any attack from land, sea or air bases with heavy weapons which, like artillery, missiles, or aircraft, are capable of destroying enemy targets at greater distance beyond the battlelines,” but which does not require entrance into or presence on the territory by the armed forces of the aggressor State.<sup>27</sup>
- A naval blockade, under *litera* (c), which requires that the blockading State engages its armed forces at a scale sufficient to effectively prevent vessels from entering or exiting specified ports and/or coastal areas.<sup>28</sup>
- An attack by the armed forces of one State against another State, under *litera* (d).
- The use of armed forces of one State in another State, in contravention of a prior agreement, under *litera* (e). An act of aggression under Article 8 *bis* (2)(e) of the Rome Statute does not require actual combat, as the act of aggression consists of a use of force in contravention of an agreement between the aggressor State and the victim State.<sup>29</sup>

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24 *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) [2004] ICJ Rep., p. 136, para. 87.

25 UN General Assembly Resolution 2625(XXV) of October 24, 1970.

26 See UN Security Council Resolution 662 of August 9, 1990.

27 Kreß, “The State Conduct Element,” 442 (citing A. McDonald and T. Bruha, “Bombardment,” in *The Max Planck Encyclopedia of Public International Law*, ed. R. Wolfrum, vol. I (10 vols. and one annex, Oxford University Press, 2012), 979–85, at 979 (para. 1).

28 Kreß, “The State Conduct Element,” 444.

29 Kreß, “The State Conduct Element,” 445.

- The conduct described in litera (f) of Article 8 *bis* (2), namely the use by one State of another State’s territory with the latter’s consent for the perpetration of an act of aggression, constitutes an act of aggression in itself. This requires, first, that one State place part of its territory at the disposal of another. Second, that the latter uses it to commit an act of aggression. Third, that the first State consents to such use. This conduct amounts to what may be characterized as “active collusion.”<sup>30</sup> This is relevant to the discussion of the role of Belarus, as described in the section of this Memorandum for Prosecution.
34. There is significant overlap between the acts listed, so that one military operation may meet the requirements of several acts of aggression but are often subsumed as “one” act of aggression within the meaning of Article 8 *bis* (1) and the first sentence of Article 8 *bis* (2).<sup>31</sup>
35. **Indirect aggression:** The Rome Statute also includes what has been termed “indirect aggression.” For an act of aggression under Article 8 *bis* (2)(g) of the Rome Statute to be established, it must be shown that:
- armed bands, groups, irregulars, or mercenaries carried out acts of armed force against another State of such gravity as to amount to an act of aggression under Articles 8 *bis* (2)(a)–(f) of the Rome Statute; and
  - the aggressor State either sent these persons or was substantially involved in their sending.<sup>32</sup>
36. The category of persons referred to as “armed bands, groups, irregulars, or mercenaries” under Article 8 *bis* (2)(g) of the Rome Statute is considered to include all persons that do not fall within the concept of *de facto* organs of a state.<sup>33</sup>
37. To attribute the wrongful acts of these groups to a State under the principles of state responsibility, the State must exercise effective control over them. The International Criminal Tribunal for the former Yugoslavia (ICTY) developed the overall control standard in the context of individual criminal responsibility. That standard includes more than financing and equipping and also involves participation in planning and supervision of military operations.<sup>34</sup> However, for the purpose of state responsibility, the stricter effective control test is a common threshold, which would be met even

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30 Kreß, “The State Conduct Element,” 446–47.

31 Kreß, “The State Conduct Element,” 450–51.

32 Kreß, “The State Conduct Element,” 448.

33 Kreß, “The State Conduct Element,” 448.

34 *Prosecutor v. Tadić*, Appeals Chamber, International Criminal Tribunal for Yugoslavia (ICTY), Case No. IT-94-1-A, July 15, 1999, para. 145, <https://www.icty.org/en/cases/judgement-list#1999>.

under the present circumstances. In *Ukraine and the Netherlands v. Russia Judgment (Merits)*, the ECtHR affirmed that attribution of conduct to a State requires that the State exercised effective control over the non-State actors in question.<sup>35</sup>

38. **Occupation by proxy:** “Occupation” traditionally refers to belligerent occupation by a State’s armed forces. However, there are increasing instances where territory is effectively controlled by non-State armed groups acting on behalf of and under the control of a foreign state. Such situations may qualify as occupation by proxy, even if the foreign State has not directly deployed its own forces in the territory. While the use of armed groups may already amount to an act of aggression or a violation of sovereignty, the focus here is on establishing occupation. This requires demonstrating that the foreign State exercises effective control over the territory through the proxy group. This may be shown by control over the organized groups that themselves maintain effective control over all or part of the territory.<sup>36</sup>
39. Although there are different views as to what level of control over proxies is required to satisfy this inquiry, the “effective control” test established by the ICJ in *Nicaragua* is considered by some as the applicable standard when assessing state responsibility for acts of aggression.<sup>37</sup> While the “overall control” test adopted by the ICTY Appeals Chamber in *Tadić* has been influential in the context of determining whether a conflict is international in nature, it was developed for a different legal purpose. In *Tadić*, the Appeals Chamber held that overall control does not require a State to issue specific orders or direct individual operations.<sup>38</sup> It found that overall control exists where a State has a role in organizing, coordinating, or planning military actions, as well as providing financing, training, equipping, or operational support.<sup>39</sup> However, when the inquiry concerns the attribution of conduct to a State, particularly in relation to aggression, the effective control test may be the more appropriate under international law. In any event, even the heightened threshold is met here.

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35 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 325.

36 Global Rights Compliance (GRC), “International Law and Defining Russia’s Involvement in Crimea and Donbas,” 2022, Global Rights Compliance Report, 250, <https://globalrightscpliance.org/wp-content/uploads/2025/06/International-Law-and-Russia-Involvement-in-Crimea-and-Donbas-1.pdf> (hereinafter, “GRC Report”); ICRC, *Commentary on the First Geneva Convention: Convention (I) Relative to the Protection of Civilian Persons in Time of War*, Common Article 2, paras. 328–29; ICRC, *Commentary on the Third Geneva Convention*, Common Article 2, para. 362.

37 *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* (Merits) [1986] ICJ Rep., 14, para. 115.

38 *Tadić*, ICTY Judgment of July 15, 1999 (IT-94-1-A, 15 July 1999), paras. 131 and 137.

39 *Tadić*, ICTY Judgment of July 15, 1999 (IT-94-1-A), para. 137.

## SELF-DEFENSE

40. To constitute an act of aggression, the use of force must be unlawful.<sup>40</sup> This means that the use of force is not justified as self-defense, individual or collective.
41. Article 51 of the UN Charter recognizes the right of member states to defend themselves against an armed attack individually or collectively as long as the UN Security Council does not take necessary measures.
42. In order to invoke self-defense, the following principles would govern:
- **Armed Attack:** First, Article 51 of the UN Charter provides that a State may exercise its right of individual or collective self-defense “if an armed attack occurs.” The ICJ distinguished in the *Nicaragua* case “the most grave forms of the use of force (those constituting an armed attack) from other less grave forms.”<sup>41</sup> That not all use of force amount to an armed attack giving rise to the right to self-defense was reaffirmed by the ICJ in the *Oil Platforms* case.<sup>42</sup>
  - **Imminence:** Second, the right of self-defense arises in situations of both an actual and an imminent armed attack.<sup>43</sup> The criteria for imminence laid down in the *Caroline* case are frequently invoked: There must be “a necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment for deliberation.”<sup>44</sup> International law does not support the right of preemptive self-defense according to which self-defense could be used to defend against or prevent possible non-imminent attacks emanating from another State.<sup>45</sup> Thus, a State which seeks to resort to the right to self-defense must show that the armed attack has occurred or is imminent.

40 Kreß, “The State Conduct Element,” 453.

41 *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) (Merits)* [1986] ICJ Rep., p. 91, para. 191.

42 *Oil Platforms (Iran v. United States of America) (Judgment)* [2003] ICJ Rep., pp. 161, 187; *case*, ICJ Rep., 2003, pp. 161, 187.

43 The Institut de Droit International Resolution on Self-Defence 2007, [https://www.idi-ii.org/app/uploads/2017/06/2007\\_san\\_O2\\_en.pdf](https://www.idi-ii.org/app/uploads/2017/06/2007_san_O2_en.pdf), para. 3, provides that “The right of self-defence arises for the target state in case of an actual or manifestly imminent armed attack,” and that it may be exercised “only when there is no lawful alternative in practice in order to forestall, stop or repel the armed attack”; Report of the UN High Level Panel on Threats, Challenges and Change, UN Doc A/59/565 (2004), para. 188, provides that “a threatened state, according to long established international law, can take military action as long as the threatened attack is imminent, no other means would deflect it and the action is proportionate” (emphasis in original). The response of the UN Secretary-General, *In Larger Freedom*, UN Doc A/59/2005 (2005), para. 124, stated that the right to self-defense extended to imminent threats. See also Elizabeth Wilmshurst, “The Chatham House Principles on International Law on the Use of Force in Self-Defence,” *International and Comparative Law Quarterly* 55, no. 4 (2005): 963, 964–65.

44 *The Caroline* (1837), 29 British and Foreign State Papers, 1137.

45 Report of the UN High Level Panel on Threats, Challenges and Change, UN Doc A/59/565 (2004), para. 189, and the UN Secretary-General’s Report, *In Larger Freedom*, UN Doc A/59/2005 (2005), para. 125, both state that resort should be had to the Security Council where the threat is not imminent; The Institut de Droit International Resolution on Self-Defence 2007, para. 6, notes that “There is no basis in international law for the doctrine of ‘preventive’ self-defence in the absence of an actual or manifestly imminent armed attack”; see also Wilmshurst, “The Chatham House Principles,” 963, 968.

43. **Necessary and Proportional:** Third, any use of force in self-defense must be necessary and proportional. The ICJ stated in *Nicaragua* that the “specific rule whereby self-defense would warrant only measures which are proportional to the armed attack and necessary to respond to it, [is] a rule well established in customary international law.”<sup>46</sup> On necessity, it must be shown that the response by the State claiming to exercise force in self-defense is required by the armed attack, whether actual or imminent, and that no alternative responses to the use of force are available.<sup>47</sup> Proportionality relates to the magnitude, duration, and target of the response.
44. Relatedly, the “protection of nationals abroad” doctrine, if accepted,<sup>48</sup> would presumably authorize a State to intervene militarily in the territory of another State in individual self-defense where “(1) there is an imminent threat of injury to nationals; (2) a failure or inability on the part of the territorial sovereign to protect them, and; (3) the action of the intervening State is strictly confined to the objective of protecting its nationals.”<sup>49</sup>
45. As discussed further below in this Memorandum for Prosecution, Russia formally invoked Article 51 of the UN Charter in relation to its 2022 invasion of Ukraine, citing self-defense. While it had previously advanced various justifications for its actions in Donbas from 2014 onwards—including the protection of Russian-speaking populations and unsubstantiated allegations of genocide—these have been characterized as *de facto* or implied claims of collective self-defense. However, Russia did not formally notify the UN Security Council under Article 51 nor explicitly invoke that provision of the Charter in relation to its earlier involvement in the Donbas conflict.

## EXECUTION OF THE CRIME OF AGGRESSION IS A CONTINUING OFFENSE

46. The crime of aggression, as defined in Article 8 *bis* (1) of the Rome Statute, encompasses the “planning, preparation, initiation, and execution” of an act of aggression.

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46 *Case Concerning Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America)* (Merits) [1986] ICJ Rep., pp. 94, 103. The ICJ also stated in its *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons* [1996] ICJ Reports, 226, 245, that “The submission of the exercise of the right of self-defence to the conditions of necessity and proportionality is a rule of customary international law” and the same conditions applied to the right to self-defense under Article 51.

47 For instance, the ICJ held in the Oil Platforms cases held that the U.S. attacks on the oil platforms, allegedly in self-defense were not necessary on the facts of the case, *Oil Platforms (Iran v. United States of America)* (Judgment) [2003] ICJ Rep., pp. 161, 198.

48 See, for an analysis of the legality of the forcible protection of nationals abroad, GRC, “International Law and Defining Russia’s Involvement in Crimea and Donbas,” February 13, 2022, 46–47.

49 Tom Ruys, “The Protection of Nationals: Doctrine Revisited,” *Journal of Conflict & Security Law* 13, no. 2 (2008): 233.

47. While the acts of planning, preparation, and initiation are generally understood to be temporally discrete, the term “execution”—included in the final definition adopted at the 2010 Kampala Review Conference—permits a more temporally extended interpretation. In its ordinary meaning and within the context of international criminal law, “execution” can encompass the sustained and unlawful use of armed force against the sovereignty, territorial integrity, or political independence of another state, in manifest violation of the UN Charter.
48. Accordingly, the crime of aggression may, in its execution phase, persist over time, particularly where individuals in a position of political or military control continue to direct, enable, or materially contribute to the ongoing unlawful use of force. While there is no definitive judicial precedent on the temporal limits of the crime of aggression under the Rome Statute, this interpretation finds support in the drafting history of Article 8 *bis*, relevant scholarly commentary, and the broader principle of individual criminal responsibility for sustained violations of international law.
49. Nonetheless, such an interpretation should be approached cautiously, with particular attention to the requirement that individual contributions to the execution phase of the crime meet the threshold for individual criminal responsibility under Article 25 of the Statute. Once a manifest violation of the UN Charter has been established, those contributions need not themselves constitute manifest violations but must be part of the continued execution of the crime.<sup>50</sup>
50. This Memorandum for Prosecution sets out how Russia’s conduct against Ukraine constitutes the crime of aggression and represents a continuous pattern of unlawful use of force that commenced in 2014 with the illegal annexation of Crimea and has persisted through the occupation of territories in the Donbas region and the full-scale invasion launched on February 24, 2022, and continuing to this day. The Memorandum for Prosecution sets out the factual context of each of these phases of Russia’s aggression against Ukraine and how they are part of Russia’s continuous commission of the crime of aggression against Ukraine.<sup>51</sup>

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50 See *Rome Statute of the International Criminal Court*, art. 8 *bis*(1); Claus Kreß, in *The Rome Statute of International Criminal Court: A Commentary*, ed. O. Triffterer and K. Ambos (3rd ed., C.H. Beck/Hart/Nomos, 2016): art. 8 *bis*, margin no. 115; Stefan Barriga and Claus Kreß, eds., *The Crime of Aggression under the Rome Statute*, 1st ed. (Cambridge University Press, 2017), 405–6; Roger S. Clark, “Negotiating Provisions Defining the Crime of Aggression,” *Leiden Journal of International Law* 24 (2011): 889–96.

51 UN General Assembly, Resolution 68/262 adopted on March 27, 2014 (explicitly recognized that Russian actions fell under the definition of aggression according to paragraphs (a), (b), (c), (d), (e) and (g) of Article 3 of the Annex to UN General Assembly Resolution 3314 (XXIX)); UN General Assembly, Resolution ES-11/1 adopted on March 2, 2022 (deploring Russia’s aggression against Ukraine, including its 2022 invasion). See also Carrie McDougall, “The Imperative of Prosecuting Crimes of Aggression Committed against Ukraine,” *Journal of Conflict and Security Law* 28, no. 2 (2022): 203–30, <https://academic.oup.com/jcsl/article/28/2/203/7081290>.

# PHASE I: 2014 OCCUPATION OF CRIMEA

51. Acts of aggression committed by Russia against Ukraine by using armed force against the sovereignty, territorial integrity, and political independence of Ukraine can be traced back to its use of armed force in Crimea<sup>52</sup> from February 27, 2014.<sup>53</sup> These acts of aggression constitute manifest violations of the UN Charter.

## RUSSIA USED ARMED FORCE AGAINST THE SOVEREIGNTY, TERRITORIAL INTEGRITY, AND POLITICAL INDEPENDENCE OF UKRAINE

52. Russia used armed force against the sovereignty, territorial integrity, and political independence of Ukraine, in violation of Article 8 *bis* (2) of the Rome Statute.
53. This section demonstrates that various acts of aggression were committed, or continue to be committed, in Crimea.

## Russia expanded its military presence in Ukraine beyond that permitted under its agreement with Ukraine, an act of aggression under Article 8 *bis* (2)(e) of the Rome Statute

54. Russia expanded its military presence in Crimea beyond that permitted under a series of agreements with Ukraine, thereby committing an act of aggression under Article 8 *bis* (2)(e) of the Rome Statute.
55. These agreements, and Russia's contravention thereof, were considered in the ECtHR decision on admissibility in *Ukraine v. Russia (Re Crimea)*, a case involving two applications by the Ukrainian government concerning the treatment of various groups on the territory of Crimea by Russian occupying authorities.<sup>54</sup>

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52 For the purposes of this submission, "Crimea" refers to both the Autonomous Republic of Crimea and the city of Sevastopol.

53 For a more comprehensive assessment of Russia's actions in Crimea, up to date as of February 13, 2022, see GRC, "International Law and Defining Russia's Involvement in Crimea and Donbas."

54 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020.

56. The “Agreement on the Status and Conditions of the Presence of the Black Sea Fleet of the Russian Federation on the Territory of Ukraine” was signed between Russia and Ukraine on May 28, 1997.<sup>55</sup> The ECtHR in its admissibility decision describes the aim of this agreement as specifying the limits to the total personnel strength and the quantity of ships, vessels, armament, and military equipment of Russia’s Black Sea Fleet on the territory of Ukraine.<sup>56</sup> Article 4 of the Agreement provides:
1. The total personnel strength, the number of ships, vessels, armament, and military equipment of the Black Sea Fleet of the Russian Federation located on the territory of Ukraine shall not exceed the limits established in the Agreement between the Russian Federation and Ukraine on the Parameters of the Division of the Black Sea Fleet of 28 May 1997.
  2. The Russian side shall inform the Ukrainian side of the total personnel strength and the main armament of the Black Sea Fleet of the Russian Federation located on the territory of Ukraine in accordance with the list agreed by the Parties before 1 January on an annual basis.<sup>57</sup>
57. The “Agreement between the Russian Federation and Ukraine on the Parameters of the Division of the Black Sea Fleet,” consisting of three bilateral treaties signed on May 28, 1997, specified the quantity of Russian military personnel and armament that could remain on Ukrainian territory. It indicated that:
- [t]he total military personnel strength of the BSF [Black Sea Fleet] of the Russian Federation on the territory of Ukraine is 25,000 people, including 1,987 people in the marine infantry and the land-based naval air force.<sup>58</sup>
58. In 2010, Russia and Ukraine signed the “Agreement between the Russian Federation and Ukraine on the Presence of the Black Sea Fleet of the Russian Federation on the Territory of Ukraine” (also known as the Kharkov Agreement) and agreed to extend the duration of the above-mentioned treaties for a period of 25 years, starting on May 28, 2017.<sup>59</sup>

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55 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 203.

56 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 204.

57 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 203.

58 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 205; Spencer Kimball, “Bound by Treaty,” Deutsche Welle, March 11, 2014, <https://www.dw.com/en/bound-by-treaty-russia-ukraine-and-crimea/a-17487632>.

59 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision of December 16, 2020, para. 207; Alexander Astrov, *The Great Power (mis)Management: The Russian–Georgian War and Its Implications for Global Political Order* (Routledge, 2011), 82; Federal Law On Ratification of the Agreement between the Russian Federation and Ukraine on the Presence of the Russian Federation’s Black Sea Fleet in Ukrainian Territory, <http://www.en.kremlin.ru/catalog/countries/UA/events/copy/7586>.

59. The ECtHR in its admissibility decision noted, and Russia did not dispute, that Russia was bound by these agreements in February and March 2014.<sup>60</sup> In its description of these agreements in the admissibility decision, the court considered that the limits set in the second agreement were “subject to the Russian Federation’s undertaking to inform Ukraine in accordance with Article 4(2) of the [first...] Agreement.”<sup>61</sup> This suggests that any increase of Russian military personnel beyond that notified to Ukraine may have occurred without Ukraine’s consent.
60. The ECtHR further found, and Russia did not dispute, that the agreed maximum number of Russian military personnel in Crimea for 2014 was set at 10,936.<sup>62</sup> Ukraine asserted that the number of Russian military personnel in Crimea started to increase in late January 2014, reaching 18,430 personnel by March 12, 2014, and 22,000 personnel by March 18, 2014.<sup>63</sup> This number was not contested by Russia, which admitted in its oral pleadings that the number of Russian military personnel in Crimea at the relevant time had been “almost equal” to the total of 20,315 Ukrainian military personnel.<sup>64</sup>
61. The court also observed that the Ukrainian government sent protest notes to the Russian government between February 26 and June 6, 2014, detailing the deployment of Russian troops and movements of armaments to Crimea and requesting Russia to withdraw them from Ukrainian territory.<sup>65</sup> The court considered that these protest notes further demonstrated Ukraine’s lack of consent to the expansion of Russian military presence in Crimea.<sup>66</sup>
62. As such, the ECtHR held that Ukraine did not consent to Russia’s expansion of its military presence in Crimea, notwithstanding that the number of Russian military personnel in Crimea did not exceed 25,000.<sup>67</sup> Any argument that Ukraine subsequently consented to the expansion of Russian military presence in Crimea has also been refuted.<sup>68</sup>

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60 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 315.

61 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 205.

62 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 317.

63 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 318.

64 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 319.

65 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras. 205, 320.

66 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 320.

67 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 321.

68 See GRC, “International Law and Defining Russia’s Involvement in Crimea and Donbas,” 29–33.

## Russia invaded, occupied, and annexed the territory of Ukraine, an act of aggression under Article 8 *bis* (2)(a) of the Rome Statute

63. Russian military forces invaded Crimea in Ukraine, and such invasion resulted in its occupation and unlawful annexation, constituting an act of aggression under Article 8 *bis* (2)(a) of the Rome Statute. The invasion, occupation, and unlawful annexation of Crimea are detailed in turn below.

64. **Invasion:** Russian forces invaded Crimea on the night of February 26–27, 2014, as found by the ICC Office of the Prosecutor (OTP) in its Reports on Preliminary Examination Activities in 2016 and 2019.<sup>69</sup> The matter is first examined in the 2016 report, where the ICC OTP states:

On 27 February 2014, reportedly armed and mostly uniformed individuals wearing no identifying insignia seized control of government buildings in Simferopol, including the Crimean parliament building. The same day, in the presence of armed men, the Crimean regional parliament reportedly decided to appoint a new prime minister and hold a referendum on the status of Crimea. The Russian Federation later admitted that its military personnel had been involved in taking control of the Crimean peninsula, justifying the intervention inter alia on the basis of alleged threats to citizens of the Russian Federation, the alleged decision of residents of Crimea to join the Russian Federation and an alleged request for Russian intervention by (former) President Yanukovich, whom the Russian Federation considered to remain the legitimate leader of Ukraine.

...

The information available suggests that the situation within the territory of Crimea and Sevastopol amounts to an international armed conflict between Ukraine and the Russian Federation. This international armed conflict began at the latest on 26 February when the Russian Federation deployed members of its armed forces to gain control over parts of the Ukrainian territory without the consent of the Ukrainian Government.<sup>70</sup>

65. **Occupation:** As described in paragraphs 25–26, military occupation requires that the hostile army have “actual authority” or “effective control” over the territory, with the ICRC explaining that this requires physical presence without consent, inability of local government to exercise its powers, and exercise of authority by the foreign forces.

69 International Criminal Court Office of the Prosecutor (ICC OTP), *Report on Preliminary Examination Activities* (2016), November 14, 2016, [https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE_ENG.pdf); ICC OTP, *Report on Preliminary Examination Activities* (2019), December 5, 2019, <https://www.icc-cpi.int/sites/default/files/itemsDocuments/191205-rep-otp-PE.pdf>.

70 ICC OTP, *Report on Preliminary Examination Activities* (2016), paras. 155, 158.

66. As set out above, the effective control test may be applied to determine whether a situation qualifies as an occupation. In the context of Russia’s occupation of Ukraine, the concept of effective control was applied by the ECtHR in its determination of jurisdiction. For instance, in its decision on admissibility in *Ukraine v. Russia (Re Crimea)*, the ECtHR considered whether Russia had effective control over Crimea for the purposes of determining whether Russia was under an obligation to secure the rights of the relevant individuals in Crimea.<sup>71</sup> The court’s findings regarding effective control and occupation in Crimea are set out below.
67. Based on the facts and these various findings, Russia can be considered to have occupied Crimea as of February 27, 2014.
68. As established above, Russia began increasing its military personnel presence in Crimea as early as late January 2014, and in the period between late January 2014 and March 2014, Russian military presence in Crimea expanded beyond that agreed with Ukraine. As such, the first element of the effective control test—namely, that Russian armed forces were physically present in Crimea by February 27, 2014, without the consent of Ukraine—is established.
69. The second element of the test—namely, that the Ukrainian government was or could be rendered substantially or completely incapable of exerting its powers by virtue of Russian forces’ unconsented-to presence—is also established. The ECtHR in its admissibility decision in *Ukraine v. Russia (Re Crimea)* found that Russian military forces in Crimea took specific actions with a view to ensuring the control of entry and exit points into Crimea, undertook operations to block or disarm Ukrainian military forces, and detained Ukrainian military personnel.<sup>72</sup>
70. The court further found that Russian military personnel were actively involved in the seizure of the buildings of Crimea’s Supreme Council and Council of Ministers, and in facilitating the election of a new Council of Ministers of Crimea led by Aksenov.<sup>73</sup> In this regard, the court noted Minister of Defence Sergei Shoigu’s assertion that Russian Special Forces had seized the building of Crimea’s Supreme Council on February 27, 2014,<sup>74</sup> and President Putin’s statement in a television interview that Russia “disarm[ed] the military units of the Ukrainian army and law enforcement agencies” and that the “Russian servicemen did back the Crimean self-defense forces.”<sup>75</sup>

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71 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020.

72 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 328.

73 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 329.

74 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 331.

75 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras 332–33.

71. Other indications of the Ukrainian government’s inability to exert its powers by virtue of Russian forces’ unconsented-to presence in Crimea include the Ukrainian government’s inability to implement its March 1, 2014, executive decision declaring Aksenov’s appointment unconstitutional, and Ukrainian security services’ admission on March 4, 2014, that they were unable to perform their duties in Crimea.<sup>76</sup> The ex-commander of the Black Sea Fleet, Admiral Igor Kasatonov, also admitted to Russian media:

The Black Sea Fleet “prepared a foothold, officers knew what was going on and where the Ukrainian bases were located, while scenarios for the developments had been worked out on maps. That is, the Black Sea Fleet coped with its tasks—‘polite people’ were deployed, and on February 27–28, the Supreme Council of Crimea was seized.”<sup>77</sup>

72. The final element of the test—namely, that Russian forces were in a position to exercise authority over Crimea, in lieu of the Ukrainian government—is also established. The actions of Russian military personnel from February 27, 2014, and the acknowledgment thereof by Russian state officials, as set out above, indicate the ability to exercise authority in Crimea. The Ukrainian government’s inability to do so has already been explored above.
73. There are also further indications of Russia’s exercise of authority in Crimea. For instance, as noted by the ECtHR in its admissibility decision in *Ukraine v. Russia (Re Crimea)*, President Putin in a statement on the night of February 22–23, 2014, informed the heads of Russian state security agencies that he had decided to “start working on the return of Crimea to the Russian Federation.”<sup>78</sup> The Russian Federation Council also adopted on March 1, 2014, on the request of President Putin, Resolution No. 48-SF authorizing President Putin to use the Russian armed forces on the territory of Ukraine until the social and political situation in Ukraine became “normal.”<sup>79</sup>
74. Ukraine’s inability to implement its March 1, 2014, executive decision declaring Aksenov’s appointment unconstitutional, as described above, also allowed Russia to exercise authority over Crimea.<sup>80</sup> Most notably, on March 6, 2014, the Crimean Parliament adopted a decision to hold a referendum on the status of Crimea.<sup>81</sup>

76 See GRC, “International Law and Defining Russia’s Involvement in Crimea and Donbas,” 35–36.

77 Tetyana Urbanska, “Operation ‘Crimea is Ours,’” Ukrainian Independent Information Agency, February 22, 2018, <https://www.unian.info/politics/10017818-operation-crimea-is-ours.html>.

78 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras 199, 331.

79 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 331.

80 See GRC, “International Law and Defining Russia’s Involvement in Crimea and Donbas,” 35.

81 Office of the United Nations High Commissioner for Human Rights (OHCHR), *Report on the Situation of Human Rights in the Temporarily Occupied Autonomous Republic of Crimea and the City of Sevastopol (Ukraine), Covering the Period from 22 February 2014 to 12 September 2017*, September 25, 2017, para. 24; adduced by Ukraine as evidence of effective control in *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 61.

Notwithstanding Ukraine's objection, the referendum was conducted on March 16, 2014, and the following day, the Crimean Parliament declared Crimea's independence from Ukraine<sup>82</sup> and purported to accede to Russia.<sup>83</sup> The referendum offered two choices: (1) "Are you for the Crimea re-uniting with Russia, as a subject of the Russian Federation?" or (2) restoring Crimea's 1992 constitution, which would have provided significantly greater autonomy from Ukraine. Notably, the referendum did not include an option to maintain the status quo of Crimea as it existed at the time. The referendum is widely considered to be illegal and incapable of recognition, including by the UN General Assembly,<sup>84</sup> the Council of Europe,<sup>85</sup> and the Council of the European Union.<sup>86</sup> (The city of Sevastopol is legally separate from the Autonomous Republic of Crimea and has not been subject to a referendum.)

75. Following the referendum, Russia exerted even greater authority over Crimea, including through the imposition of Russian laws<sup>87</sup> and educational standards,<sup>88</sup> the expropriation of economically valuable assets,<sup>89</sup> and the pursuit of administrative practices found by the ECtHR to contravene the rights of groups in Crimea.<sup>90</sup>
76. The circumstances of Russia's actions in Crimea from February 27, 2014, hence, satisfy the effective control test. This conclusion is consistent with the ECtHR's finding in its admissibility decision in *Ukraine v. Russia (Re Crimea)* that it was established beyond reasonable doubt that Russia exercised effective control over Crimea from February 27, 2014, as inferred from the military presence, strength, and conduct of Russian military forces in Crimea.<sup>91</sup> This finding is shared by institutions such as the ICC OTP<sup>92</sup> and the UN Human Rights Committee.<sup>93</sup> The conclusion that Crimea is occupied by Russia is

82 David M. Herszenhorn, "Crimea Votes to Secede from Ukraine as Russian Troops Keep Watch," *New York Times*, March 16, 2014, <https://www.nytimes.com/2014/03/17/world/europe/crimea-ukraine-secession-vote-referendum.html>.

83 See GRC, "International Law and Defining Russia's Involvement in Crimea and Donbas," 36–38; information adduced by Ukraine as evidence of effective control in *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras. 63–64.

84 UN General Assembly Resolution 68/262 of March 27, 2014, paras. 5–6.

85 Parliamentary Assembly of the Council of Europe (PACE) Resolution 1988(2014) of April 9, 2014, para. 16; Committee of Ministers of the Council of Europe Decision CM/Del/Dec(2014)1196/1.8 of April 2, 2014, para. 1.

86 Council Decision 2014/145/CFSP of March 17, 2014, preambular para. 1.

87 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, para. 944; OHCHR, Report on the Situation of Human Rights September 25, 2017, Executive Summary, para. 8.

88 OHCHR, *Report on the Situation of Human Rights*, September 25, 2017, Right to Education in Native Language, para. 195.

89 OHCHR, *Report on the Situation of Human Rights*, September 25, 2017, Economic, Social and Cultural Rights, para. 171.

90 See *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024.

91 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras. 315–35, described in *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, para. 864.

92 ICC OTP, *Report on Preliminary Examination Activities (2019)*, para. 262. See also on "control," ICC OTP, *Report on Preliminary Examination Activities (2016)* paras. 155–58.

93 UN Human Rights Committee, *Concluding Observations on the Seventh Periodic Report of the Russian Federation*, April 28, 2015, *Violation of Covenant Rights of Residents of the Autonomous Republic of Crimea and the City of Sevastopol*.

also supported by the UN General Assembly,<sup>94</sup> the Office of the United Nations High Commissioner for Human Rights (OHCHR),<sup>95</sup> the Council of Europe,<sup>96</sup> Human Rights Watch,<sup>97</sup> and Amnesty International.<sup>98</sup>

77. While the ECtHR in its admissibility decision in *Ukraine v. Russia (Re Crimea)* declined to consider the issue of sovereignty and therefore to determinatively assess whether Crimea was under Russian occupation, it appeared to consider Crimea to be under Russian occupation in its subsequent decision on the merits.<sup>99</sup> In the latter decision, the court found that the rules of international humanitarian law were applicable to the matter, following consideration of a number of sources asserting Crimea's status as an occupied territory.<sup>100</sup>
78. Thus, as the effective control test is satisfied, Russia can be considered to have occupied Crimea from February 27, 2014.
79. **Annexation:** Russia also unlawfully annexed Crimea, in violation of Article 8 *bis* (2)(a) by acquiring Crimea and incorporating it as its own territory.
80. Following the occupation of Crimea and the referendum of March 16, 2014, Russia unlawfully annexed Crimea by signing the Treaty of Accession on March 18, 2014, with the "Republic of Crimea" and the city of Sevastopol.<sup>101</sup> On March 20, 2014, the Russian State Duma voted to "accept" Crimea and ratified the March 18, 2014, "treaty."<sup>102</sup> The Russian Federation Council also ratified the "treaty" on March 21, 2014<sup>103</sup> and

94 UN General Assembly Resolution 71/205 of December 19, 2016, para. 2.

95 OHCHR, *Report on the Situation of Human Rights*, September 25, 2017.

96 PACE Resolution 2482(2023) of January 26, 2023, para. 1.

97 Human Rights Watch, "Rights in Retreat: Abuses in Crimea," November 17, 2014, <https://www.hrw.org/report/2014/11/17/rights-retreat/abuses-crimea>.

98 Amnesty International, "One Year On: Violations of the Rights to Freedom of Expression, Assembly and Association in Crimea," 2015, <https://www.amnesty.ch/de/laender/europa-zentralasien/ukraine/dok/2015/ukraine-krim-ein-jahr-nach-der-annexion-kein-raum-fuer-kritik/amnesty-bericht-one-year-on-violations-of-the-rights-to-freedom-of-expression-assembly-and-association-in-crimea>.

99 See, e.g., *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 918–19. See also Marko Milanovic, "Some Additional Comments on the ECtHR Crimea Judgment: Occupation, Sovereignty, and 'Law,'" EJIL:Talk!, June 27, 2024, [https://www.ejiltalk.org/some-additional-comments-on-the-ecthr-crimea-judgment-occupation-sovereignty-and-law/?utm\\_source=mailpoet&utm\\_medium=email&utm\\_campaign=ejil-talk-newsletter-post-title\\_2](https://www.ejiltalk.org/some-additional-comments-on-the-ecthr-crimea-judgment-occupation-sovereignty-and-law/?utm_source=mailpoet&utm_medium=email&utm_campaign=ejil-talk-newsletter-post-title_2).

100 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 99, 918.

101 BBC News, "Ukraine Crisis: Putin Signs Russia-Crimea Treaty," March 18, 2014, <https://www.bbc.com/news/world-europe-26630062>. See information adduced by Ukraine as evidence of effective control in *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision of December 16, 2020, para. 64.

102 See information adduced by Ukraine as evidence of effective control in *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 65.

103 Federation Council, "Senators Approved Two Laws on the Admission of the Republic of Crimea to the Russian Federation," March 21, 2014, <http://council.gov.ru/events/news/40564/>.

adopted a constitutional law to that effect.<sup>104</sup> As set out above, Russia then extended its authority in Crimea by exercising governmental functions and establishing government institutions.<sup>105</sup> As such, Russia annexed Crimea following its occupation.

81. Accordingly, the Russian Federation’s invasion, occupation, and annexation of Crimea all constitute acts of aggression.

## **RUSSIA’S ACTS OF AGGRESSION IN CRIMEA CONSTITUTE MANIFEST VIOLATIONS OF THE UN CHARTER**

82. Russia’s acts of aggression in Crimea constitute a “manifest violation” of the UN Charter because of their “character, gravity and scale,” according to the meaning of Article 8 *bis* (1). As noted, only two of the three prongs are required; here, all three are met.

### **Russia’s acts of aggression are manifest violations by their character**

83. According to the standard set out in paragraphs 24–28 above, Russia’s acts of aggression in Crimea constitute manifest violations of the UN Charter in that Russia’s claims to having acted in self-defense are unfounded and the unlawful annexation of Crimea represents another form of Russia’s use of force.
84. No applicable exception to prohibition against use of force: Russia has sought to justify its invasion, occupation, and annexation of Crimea, seemingly as an act of self-defense. Three individual self-defense arguments emerge from the statements of various Russian officials, as set out below. The factual circumstances do not support any of these self-defense arguments.
85. Under the first argument, Russia would be using force in individual self-defense to protect itself, including in particular its military fleet in the Black Sea. Russia’s then-permanent representative to the UN, Vitaly Churkin, claimed on March 3, 2014, that he had “information about the preparation of new provocations, including against the Russian Black Sea fleet in Ukraine.”<sup>106</sup> The Russian Federation Council chairperson,

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104 Federal Law No. 6-FKZ “On the Admission of the Republic of Crimea to the Russian Federation and the Formation of New Subjects within the Russian Federation—the Republic of Crimea and the Federal City of Sevastopol,” March 21, 2014, <https://www.prilib.ru/en/node/353509?>

105 See GRC, “International Law and Defining Russia’s Involvement in Crimea and Donbas,” 39–40.

106 UN Security Council Meeting, UN Doc. S/PV.7125, March 3, 2014, 3, [https://digitallibrary.un.org/record/766547?utm\\_source=chatgpt.com&v=pdf](https://digitallibrary.un.org/record/766547?utm_source=chatgpt.com&v=pdf).

Valentina Matviyenko, also reported to Russian media on March 1, 2014, that “[t]here is a threat to our military in Sevastopol and the Black Sea Fleet, and I think that Russia should not be a bystander.”<sup>107</sup>

86. Under the second argument, Russia would be using force in individual self-defense to protect its nationals in Ukraine. The Russian Federation Council chairperson, Valentina Matviyenko, said to Russian media on March 1, 2014 that “[t]oday there is a real threat to the life and security of Russian citizens living in Ukraine. . . . I think that Russia should not be a bystander.”<sup>108</sup> Russia hence appears to qualify its actions as legally justifiable under the “protection of nationals abroad” doctrine.

87. Under the third argument, Russia would be using force in individual self-defense to protect Crimea and the right to self-determination of the people of Crimea, following Crimea’s alleged accession to Russia. In this regard, as submitted by Russia in the ECtHR case of *Ukraine v. Russia (Re Crimea)*, Russia denies any intervention in Crimea until March 18, 2014, and any responsibility for the events leading up to the March 16, 2014, referendum.<sup>109</sup> As justification for its admitted intervention in Crimea following the referendum and Crimea’s alleged accession to Russia, Russia submitted to the ECtHR an April 17, 2014, speech by President Putin where he stated:

In order to ensure the normal expression of the will of the individuals living in Crimea, to be honest, we had to prevent the bloodshed and not to allow the armed forces, armed units of the Ukrainian Army deployed in Crimea, or the law enforcement agencies, to prevent the people from expressing their will. We had to disarm the military units of the Ukrainian army and law enforcement agencies or to convince them not to interfere with people expressing their opinion and, actually, to collaborate with us in that.<sup>110</sup>

88. However, Russia could not legally resort to individual self-defense, as set out in the first two arguments above, as Ukraine had not committed an armed attack against Russia and did not pose an imminent threat to Russia or its people, and Russia’s military action was neither necessary nor proportionate.

89. First, as set out in paragraphs 40–44 above, self-defense is justified if an armed attack occurs. Russia has not demonstrated that it has been the victim of an armed attack by Ukraine. In fact, as observed by the ECtHR in its admissibility decision in *Ukraine v. Russia (Re Crimea)*, Russia was unable to provide “any evidence or any objective assessment,

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107 ITAR-TASS, “Putin’s Letter on Use of Russian Army in Ukraine Goes to Upper House,” March 1, 2014, <https://tass.com/russia/721586>.

108 ITAR-TASS, “Putin’s Letter on Use of Russian Army.”

109 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras. 174–76, 180.

110 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 177.

contemporaneous or otherwise, based on relevant material, that there had been any, let alone any real, threat to the Russian military forces stationed in Crimea at the time.”<sup>111</sup>

90. Second, as set out at paragraph 42 above, the right of self-defense arises in situations of both an actual and an *imminent* armed attack. But Russia has not shown that the alleged threat posed by Ukraine was imminent.
91. Third, as set out at paragraph 43 above, any use of force in self-defense must be necessary and proportional. The criteria of necessity and proportionality are not met in Russia’s argument of purported use of force in self-defense. Ukraine posed no imminent threat to Russia. Consequently, Russia’s use of force in Crimea was not necessary. Further, the scale of Russia’s use of force illustrates that Russia’s response is grossly disproportionate.
92. There is no evidence to suggest that the “protections of nationals abroad” doctrine applies here, since the criteria of an “imminent threat of injury to nationalists” or “failure or inability” of Ukraine to “protect them” were not met in relation to Russian nationals in Crimea. In fact, the OHCHR concluded there was no evidence of threats or persecution of Russian nationals in Crimea prior to the Russian invasion of Crimea.<sup>112</sup> The third criterion is clearly not satisfied in this situation, since Russia’s actions in Crimea extend beyond the protection of nationals.
93. Further, Russia could not legally resort to individual self-defense as set out in its third argument because the annexation of Crimea is unlawful, such that Crimea is not part of Russia’s sovereign territory. As explained in paragraphs 30–32, the unlawful nature of the annexation precludes any reliance on self-defense in relation to that territory.
94. Russia’s annexation of Crimea was made possible through its prior use of force to invade and occupy Crimea, such that the annexation is unlawful and a violation of the *jus cogens* prohibition against annexation. Specifically, as established in paragraphs 69–71 above, Russia’s occupation of Crimea involved rendering the Ukrainian government substantially or completely incapable of exerting its powers by virtue of Russian forces’ unconsented-to presence. Russia’s role in creating the conditions for Crimea’s referendum and subsequent alleged accession to Russia was in fact admitted by President Putin, who publicly stated:

Russia created conditions [to assert sovereignty over Crimea]—with the help of special armed groups and the Armed Forces, I will say it straight—but only for the free expression of the will of the people living in Crimea and Sevastopol.<sup>113</sup>

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111 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 324.

112 OHCHR, *Report on the Human Rights Situation in Ukraine*, April 15, 2014, para. 89, [https://www.ohchr.org/Documents/Countries/UA/Ukraine\\_Report\\_15April2014.doc](https://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014.doc).

113 Kremlin, “Direct Line with Vladimir Putin,” April 17, 2014, <http://en.kremlin.ru/events/president/news/20796>.

95. Russia's annexation of Crimea is further unlawful in that the March 16, 2014, referendum violated Ukrainian and international law, as well as international and regional standards.<sup>114</sup> The referendum is also considered illegal and the subsequent purported accession of Crimea and Sevastopol to Russia through the March 18, 2014, Treaty of Accession largely unrecognized, including by the UN General Assembly,<sup>115</sup> the OHCHR,<sup>116</sup> the Council of Europe,<sup>117</sup> and the Council of the European Union.<sup>118</sup>

### Russia's acts of aggression are manifest violations by their gravity

96. As set out in paragraphs 21-22 above, acts of aggression must also be a manifest violation by their gravity. Russia's acts of aggression in Crimea display the required gravity.
97. First, there have been several human casualties in Crimea. In 2017, the OHCHR reported that during incidents related to the Russian occupation of Crimea, four persons were killed and two others died between February and April 2014.<sup>119</sup>
98. Second, common life in Crimea was severely disturbed as a result of the Russian occupation. The ECtHR in its merits decision on *Ukraine v. Russia (Re Crimea)* found that, during the relevant period between February 27, 2014, and August 26, 2015, Russia instituted administrative practices in Crimea that violated the rights of people in Crimea. In particular, the Court considered it to be established beyond reasonable doubt that Russia
- instituted an administrative practice of enforced disappearances, thereby violating the right to life;<sup>120</sup>
  - instituted an administrative practice of ill-treatment and unlawful detention, thereby violating the right to freedom from torture and inhuman or degrading treatment or punishment and the right to liberty and security of person;<sup>121</sup>

114 For a detailed analysis, see GRC, "International Law and Defining Russia's Involvement in Crimea and Donbas," 68-72.

115 UN General Assembly Resolution 68/262 of April 1, 2014, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FRES%2F68%2F262&Language=E&DeviceType=Desktop&LangRequested=False>; UN General Assembly Resolution 71/205 of February 1, 2017.

116 OHCHR, *Report on the Human Rights Situation in Ukraine*, April 15, 2014.

117 PACE Resolution 1988(2014) of April 9, 2014, para. 16; Committee of Ministers of the Council of Europe Decision CM/Del/Dec(2014)1196/1.8 of April 2, 2014, para. 1.

118 Council Decision 2014/145/CFSP of March 17, 2014, preambular para. 1.

119 OHCHR, *Situation of Human Rights in the Temporarily Occupied Autonomous Republic of Crimea and the City of Sevastopol*, September 25, 2017, para. 80, <https://www.ohchr.org/en/documents/country-reports/situation-human-rights-temporarily-occupied-autonomous-republic-crimea-0>.

120 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 964-74.

121 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 986-99.

- unlawfully imposed Russian law on Crimea following the alleged accession to Russia, thereby violating the right to a fair trial;<sup>122</sup>
- instituted an administrative practice of effectively disallowing residents of Crimea to opt out of assuming Russian citizenship, thereby violating the right to respect for private and family life;<sup>123</sup>
- instituted an administrative practice of conducting arbitrary raids and searches of private dwelling houses, thereby violating the right to respect for private and family life;<sup>124</sup>
- instituted an administrative practice of harassing and intimidating religious leaders not conforming to the Russian Orthodox faith, conducting arbitrary raids of places of worship and confiscating religious property, thereby violating the right to freedom of thought, conscience, and religion;<sup>125</sup>
- instituted an administrative practice of “suppressing” non-Russian media, including through closing Ukrainian and Tatar television stations, thereby violating the right to freedom of expression;<sup>126</sup>
- instituted an administrative practice of prohibiting public gatherings and manifestations of support for Ukraine or the Tatar community, as well as intimidating and arbitrarily detaining organizers of demonstrations, thereby violating the right to freedom of peaceful assembly and freedom of association with others;<sup>127</sup>
- instituted an administrative practice of expropriation without compensation of the property of civilians and private enterprises, thereby violating the right to peaceful enjoyment of one’s possessions;<sup>128</sup>
- instituted an administrative practice of not protecting the right to education in the Ukrainian language, thereby violating the right to education;<sup>129</sup>

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122 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 1010–22.

123 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 1031–39. For more on the impact on residents of Crimea who rejected Russian citizenship, see OHCHR, *Report on the Human Rights Situation in Ukraine*, April 15, 2014, para. 91.

124 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras 1044–52.

125 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras 1067–77.

126 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras 1089–4.

127 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras 1109–28.

128 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 1137–51.

129 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 1160–65.

- instituted an administrative practice of restricting freedom of movement between Crimea and mainland Ukraine, thereby violating the right to liberty of movement and freedom to choose one's place of residence;<sup>130</sup> and
  - instituted an administrative practice of targeting Crimean Tatars, in violation of the prohibition on discrimination.<sup>131</sup>
99. The ICJ in its judgment on the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russia)* found that Russia violated its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination by the way in which it has implemented its educational system in Crimea after 2014 with regard to school education in the Ukrainian language.<sup>132</sup>
100. According to OHCHR reports, as of April 29, 2014, there were 7,207 internally displaced persons (IDPs), most of which belonged to the Tartar community.<sup>133</sup> By June 2014, the reported number of IDPs rose to 12,700,<sup>134</sup> and by July 2014, the OHCHR reported 86,609 internally displaced persons from Crimea and the eastern regions of Ukraine.<sup>135</sup>
101. Third, cultural property violations by the Russian Federation reportedly took place in Crimea following the occupation. These acts included the transfer of Crimean artistic artefacts and the excavation of archaeological sites with subsequent exportation of findings to Russia.<sup>136</sup>

130 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 1170–75. See also OHCHR, *Report on the Human Rights Situation in Ukraine*, May 15, 2014, para. 131, <https://www.ohchr.org/en/documents/country-reports/report-human-rights-situation-ukraine-16>.

131 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, paras. 1181–90. For more on the targeting of Crimean Tatars, see Crimean Tatar Resource Center, “UN Forum on Minority Issues in Geneva Raised the Issue of Current Condition of the Crimean Tatar People,” December 6, 2016, <https://ctrcenter.org/en/analytics/48-un-forum-on-minority-issues-in-geneva-raised-the-issue-of-current-condition-of-the-crimean-tatar-people-video-2>; OHCHR, *Report on the Human Rights Situation in Ukraine*, May 15, 2014, para. 146.

132 *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russia)*, Judgment of January 31, 2024, para. 370.

133 OHCHR, *Report on the Human Rights Situation in Ukraine*, May 15, 2014, para. 119.

134 OHCHR, *Report on the Human Rights Situation in Ukraine*, June 15, 2014, para. 139, <https://www.ohchr.org/en/documents/country-reports/report-human-rights-situation-ukraine-15>

135 OHCHR, *Report on the Human Rights Situation in Ukraine*, July 15, 2014, para. 128, <https://www.ohchr.org/en/documents/country-reports/report-human-rights-situation-ukraine-5>.

136 Kateryna Busol, “Crimea’s Occupation Exemplifies the Threat of Attacks on Cultural Heritage,” Chatham House, The Royal Institute of International Affairs, February 4, 2020, <https://www.chathamhouse.org/2020/02/crimeas-occupation-exemplifies-threat-attacks-cultural-heritage>.

## Russia's acts of aggression are manifest violations by their scale

102. As set out in paragraph 23 above, acts of aggression must also be a manifest violation by their scale. Russia's acts of aggression in Crimea display the required scale.
103. Russia's invasion, occupation, and annexation of Crimea involved a large number of Russian military personnel. As observed by the ECtHR in its admissibility decision on *Ukraine v. Russia (Re Crimea)*, Russia in its own oral pleadings stated that the number of Russian military personnel in Crimea in March 2014 was "almost equal" to the total of 20,315 Ukrainian military personnel.<sup>137</sup> These Russian military personnel were not only present in Crimea but also deployed in pursuit of Russia's acts of aggression. For instance, on February 28, 2014, a military airfield in Belbek was seized by Russian armed forces, and from March 1, 2014, aircraft were used to transfer units of the Seventh Air Assault Division from Novorossiysk, Russia.<sup>138</sup>
104. The capacity of the Russian military presence in Crimea at the invasion and start of occupation was also high. In this regard, in the *Ukraine v. Russia (Re Crimea)* case before the ECtHR, Ukraine submitted that the Russian military forces stationed in Crimea were "elite troops."<sup>139</sup> This assertion, together with the reality of what was achieved by the Russian military forces in Crimea and the continuing unlawful annexation of Crimea to date is indicative of the scale of Russia's acts of aggression in Crimea.

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137 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision of December 16, 2020, para. 319.

138 Al Jazeera, "Ukraine: Russia behind Airport Takeovers," February 28, 2014, <https://www.aljazeera.com/news/2014/2/28/ukraine-russia-behind-airport-takeovers>.

139 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision of December 16, 2020, para. 322.

## PHASE II: OCCUPATION OF DONBAS (2014–2025)

105. Russia committed acts of aggression in Donbas from April 2014 by using armed force against the sovereignty, territorial integrity, and political independence of Ukraine.<sup>140</sup> These acts of aggression constitute manifest violations of the UN Charter.

### **RUSSIA USED ARMED FORCE AGAINST THE SOVEREIGNTY, TERRITORIAL INTEGRITY, AND POLITICAL INDEPENDENCE OF UKRAINE**

106. Russia used armed force against the sovereignty, territorial integrity, and political independence of Ukraine, in violation of Article 8 *bis* (2) of the Rome Statute.
107. This section demonstrates that various acts of aggression were committed, or continue to be committed, in Donbas.

### **Russia invaded, attacked, occupied, and annexed the territory of Ukraine, an act of aggression under Article 8 *bis* (2)(a) of the Rome Statute**

108. Russian military forces invaded and attacked Donbas in Ukraine, and such invasion and attack resulted in the continuation of its occupation, constituting an act of aggression under Article 8 *bis* (2)(a) of the Rome Statute. The invasion, attack, and occupation of Donbas are detailed in turn below.
109. The ICC OTP has determined that by April 30, 2014, the intensity of hostilities in eastern Ukraine had reached a level triggering the application of the law of armed conflict.<sup>141</sup> Furthermore, the ICC OTP noted that engagements between Ukrainian and Russian armed forces in eastern Ukraine suggested the existence of a parallel international armed conflict by July 14, 2014.<sup>142</sup>

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140 For a more comprehensive assessment of Russia's actions in Donbas, up to date as of February 13, 2022, see GRC, "International Law and Defining Russia's Involvement in Crimea and Donbas."

141 ICC OTP, *Report on Preliminary Examination Activities (2016)*, November 14, 2016, para. 168, [https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE_ENG.pdf).

142 ICC OTP, *Report on Preliminary Examination Activities (2016)*, November 14, 2016, paras. 164, 169, [https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE\\_ENG.pdf](https://www.icc-cpi.int/sites/default/files/iccdocs/otp/161114-otp-rep-PE_ENG.pdf).

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110. **Invasion:** Russia unlawfully invaded Donbas, in violation of Article 8 *bis* (2)(a) of the Rome Statute.
111. The matter of Russian forces' military presence and engagement in combat in Donbas was considered extensively by the ECtHR in *Ukraine and the Netherlands v. Russia*.<sup>143</sup> The case concerned the question of Russian state responsibility for the downing of Malaysian Airlines flight MH17 near Snizhne in the Donetsk region on July 17, 2014. In that case, the court considered the following series of events in Donbas—summarized below and discussed in paragraphs 301–348 of its admissibility decision—to be factually established.
112. In late February and early March 2014, shortly after the seizure of Crimea, high-level Russian government officials began coordinating support for separatist movements in eastern Ukraine. In *Ukraine and the Netherlands v. Russia Judgment (Merits)*,<sup>144</sup> the ECtHR also observed that pro-Russian protests took place in Donetsk and Luhansk in early March 2014, opposing what was perceived as an unconstitutional change of power in Ukraine.<sup>145</sup> From early April 2014, there was a rapid escalation of violence in eastern Ukraine, with some protestors forming armed groups to seize government buildings.<sup>146</sup>
113. Intelligence assessments, confirmed by the European Union and NATO member states, documented the rapid appearance of well-equipped, uniformed armed groups in Donetsk and Luhansk beginning in early April 2014. These groups displayed levels of coordination, armament, and command structure inconsistent with spontaneous local militia. Western intelligence agencies and open-source investigations later identified the presence of Russian military advisors and operatives from the Russian Federal Security Service (FSB) and Russian Military Intelligence Agency (GRU) embedded with these groups from the earliest stages.<sup>147</sup>
114. In its merits judgment, the ECtHR found that in early April 2014, armed groups in eastern Ukraine began seizing key government buildings, starting with the takeover of the Security Service office in Luhansk on April 6, which they declared the headquarters of the “South-East Army.”<sup>148</sup>
115. On April 7, 2014, separatists declared the independence of the “Donetsk People’s Republic” (DPR).

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143 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022.

144 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025.

145 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 40.

146 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 49; ICC OTP PE 2016, para. 159.

147 Tor Bukkvoll, “Russian Special Operations Forces in Crimea and Donbas,” *Parameters* 46, no. 13 (2016): 22, <https://press.armywarcollege.edu/parameters/vol46/iss2/4/>.

148 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 44.

116. On April 12, 2014, Russian national Igor Girkin led armed men in occupying public buildings in Donetsk.<sup>149</sup>
117. On April 14, 2014, the government of Ukraine launched an “Anti-Terrorist Operation” and deployed its armed forces to regain control over the territory. Meanwhile, an increasing number of troops of the armed forces of the Russian Federation were deployed in the border area near Ukraine.<sup>150</sup>
118. On April 27, 2014, the “Lugansk People’s Republic” (LPR) was declared in Luhansk.<sup>151</sup>
119. By April 29, 2014, separatist forces had stormed and taken control of the Luhansk Regional State Administration building.<sup>152</sup>
120. In the following days and weeks separatists took over further buildings in the Donetsk and Luhansk regions were taken over by separatists. By April 30, 2014, the acting president of Ukraine announced that the Ukrainian government was no longer in full control of Donetsk and Luhansk.<sup>153</sup>
121. On that basis, the ICC OTP has found that by April 30, 2014, the level of intensity of hostilities reached a level that would trigger the application of the law of armed conflict.<sup>154</sup>
122. The DPR and the LPR then made further moves to establish their political independence and own government. As detailed by the Grand Chamber:
59. On 11 May 2014, so-called “independence referendums” took place in the parts of the Donetsk and Luhansk regions under separatist control. The DPR and the LPR announced that a majority had voted in favour of independence. They declared themselves to be sovereign states and formed new “governments.”<sup>155</sup>
60. On or around 16 May 2014, the “Supreme Council” of the DPR approved Alexander Borodai, a Russian national . . . to head the new government and Mr Girkin as the head of the “Security Council” and “Minister of Defence” of the “DPR.” In the LPR, Valery Bolotov became “President” and Igor Plotnitsky became “Minister of Defence.” . . . Vassily Nikitin became “Prime Minister.” . . .

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149 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 46.

150 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 53; *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 47; ICC OTP PE 2016, para. 160.

151 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 56.

152 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 49.

153 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 57; ICC OTP PE 2016, para. 160.

154 ICC OTP PE 2016, para. 168.

155 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 51.

61. On 24 May 2014, the DPR and the LPR leaders signed a joint declaration on the establishment of the “Union of People’s Republics,” alternatively referred to as the “Confederate Alliance of People’s Republics of Novorossiia.”
123. Over the ensuing weeks there was a significant deterioration in the security situation in Donbas. Throughout June and July 2014, armed groups in Donbas dramatically escalated their operations, seizing Ukrainian military bases and downing aircrafts. This expansion was enabled by the influx of sophisticated Russian equipment including Grad rocket launchers, T-64 and T-72 tanks, and MANPADS. In late July 2014, a Buk missile system was used to shoot down Malaysian Airlines flight MH17, killing all 298 civilians on board. Most of the victims were Dutch nationals, with others from countries including Malaysia, Australia, and the U.K.<sup>156</sup>
124. The Joint Investigation Team and Dutch court proceedings confirmed the Buk belonged to Russia’s 53rd Anti-Aircraft Brigade and was deployed with Russian government knowledge.<sup>157</sup> The missile was launched by a Buk-TELAR from a field under separatist control, having been transported from the Russian Federation into Ukraine and returned there after the launch.<sup>158</sup> In its merits judgment, the ECtHR has reaffirmed that the Russian Federation maintained “effective control” over the launch site at the time of the missile launch.<sup>159</sup>
125. There were reports of an escalation of abductions, arbitrary detentions, summary executions, torture, ill-treatment, and looting by the armed groups.<sup>160</sup> At the same time, the intensity of hostilities in eastern Ukraine increased rapidly, including the shooting down of two Ukrainian helicopters and a Ukrainian military transport plane.<sup>161</sup> In mid-July, intense shelling began in Donbas as well as heavy fighting in the southeastern part of the Donetsk region, as separatist forces sought to gain control of a land corridor connecting the so-called DPR to the Russian border.<sup>162</sup> Russia and Ukraine exchanged accusations of their role in striking military positions of the other, leading the ICC OTP to suggest the existence of an international armed conflict from July 14, 2014, at the latest.<sup>163</sup>

156 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 54.

157 Joint Investigation Team, “Update in Criminal Investigation MH17,” press conference, May 24, 2018; see also The Hague District Court, Judgment in MH17 Case, November 17, 2022, Case No. C/09/571619, <https://www.courtmh17.com/en/judgement-and-livestream/verdict-17-november-2022.htm> (convicting Girkin in absentia for his role in the attack on MH17). Girkin left DPR in August 2014 and later became a critic of Putin’s insufficient commitment to the armed conflict in Ukraine. He was convicted and sentenced to prison in January 2024 for inciting extremism, as a result of his criticism of Putin and the Russian military. Pjotr Sauer, “Russia Jails Ultra-Nationalist Putin Critic and Woman Convicted of Bomb Attack,” *The Guardian*, January 25, 2024, <https://www.theguardian.com/world/2024/jan/25/russia-jails-ultra-nationalist-putin-critic-igor-girkin-and-darya-trepova-bomb-attack>.

158 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 129.

159 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 452.

160 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 63.

161 ICC OTP PE 2016, para. 163.

162 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 54.

163 ICC OTP PE 2016, paras. 164, 169.

126. On August 27, 2014, NATO publicly confirmed that Russian regular military units, including airborne troops and armored battalions, had crossed into Ukraine in the area south of Donetsk. This incursion led to the encirclement of Ukrainian forces near Ilovaik and marked the formalization of Russia's direct military involvement. NATO and independent analysts identified these operations as being conducted under the authority of Defence Minister Sergei Shoigu and with coordination from General Staff officers.<sup>164</sup>
127. Peace talks and two attempted ceasefire agreements proved unsuccessful.<sup>165</sup>
128. Over the next two years, fighting of varying degrees of intensity persisted, with particularly intense battles reported in Ilovaik (Donetsk Oblast) in late August 2014 and in Debaltseve (Donetsk) from January to February 2015, which has been attributed to an alleged corresponding influx in Russian support and reinforcement of the armed groups.<sup>166</sup> The OHCHR reported that the August 2014 events in Ilovaik involved civilian deaths from shelling and that, despite a negotiated humanitarian corridor, retreating Ukrainian soldiers came under heavy fire, resulting in significant casualties.<sup>167</sup>
129. Based on the above, there is ample evidence of Russian military presence in Donbas, starting at least in April 2014 and culminating by August 2014.
130. In its admissibility decision, the ECtHR found it was established beyond reasonable doubt that Russian military personnel were present in an active capacity in Donbas from at least April 2014.<sup>168</sup> It took particular note of the statement by President Putin in 2015 that “[w]e never said there are no people there [in Donbas] who deal with certain matters, including in the military area. . . .”<sup>169</sup> It also underscored the “similarities of time, space and method between the events in Crimea in late February and early March 2014 . . . and events in eastern Ukraine during the early stages of unrest.”<sup>170</sup> The court further concluded that Russian military personnel fought in the non-state armed groups in Donbas, and that senior members of the Russian military were present in command positions in the separatist armed groups and entities from the outset.<sup>171</sup> The court found that there was a large-scale deployment of Russian troops “[f]rom at the latest August 2014 in the context of the battle of Ilovaik.”<sup>172</sup> As such, Russia invaded and attacked Donbas from at least August 2014, constituting an act of aggression.

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164 NATO, Supreme Allied Commander Europe (SACEUR), press briefing, August 28, 2014; International Institute for Strategic Studies (IISS), *The Military Balance 2015*, <https://www.iiiss.org/publications/the-military-balance/the-military-balance-2015>.

165 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, paras. 77, 79; ICC OTP PE 2016, para. 167.

166 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 57; ICC OTP PE 2016, para. 166.

167 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, paras. 644, 645, 646.

168 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 611.

169 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 588.

170 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 589.

171 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 611.

172 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 611.

131. In its merits decision, the ECtHR also accepted Ukraine's allegations concerning the deployment of large numbers of Russian troops to the border region in spring 2014, in preparation for further incursions into eastern Ukraine, and found that training had been provided to Russian forces near the border before their deployment. The court corroborated that senior Russian military officials occupied command roles within the separatist forces from the outset. In particular, Igor Girkin played a central role in planning military strategy and coordinating operations between the DPR and the LPR. The Russian Federation was found to have exercised significant influence over separatists' military decision-making, with evidence showing that strategic orders and instructions were issued from Russian authorities. The court found that Russia provided weapons and military equipment on a significant scale from the earliest days of the conflict, including the Buk-TELAR system used to shoot down Malaysia Airlines flight MH17.<sup>173</sup>
132. In its admissibility decision, the ECtHR found that from May 11, 2014, until at least January 26, 2022, areas under separatist control in eastern Ukraine were under the "spatial jurisdiction" of Russia due to its effective control over these areas.<sup>174</sup> This conclusion was based on Russia's military presence and its decisive influence over the separatist entities, including the appointment of leaders with close ties to Russian authorities.<sup>175</sup>
133. In its 2025 merits judgment, the ECtHR reiterated that, from May 11, 2014, the separatist entities in the so-called DPR and LPR operated as *de facto* organs of the Russian Federation with the meaning of Article 4 of the International Law Commission Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA). The court confirmed that their military operations formed part of a broader strategy orchestrated by the Russian Federation and were carried out under its direction and control. It held that the separatists functioned in complete dependence on Russian military, political, and economic support, and effectively served as instruments of the Russian state.<sup>176</sup> The ECtHR also stated that once separatist forces were formally integrated into the Russian military command, they became *de jure* State organs under Article 4 of the ARSIWA. However, given the court's finding that the separatist groups previously functioned as *de facto* organs of the Russian Federation,<sup>177</sup> the court found it unnecessary to determine the precise moment of that transition, as Russia was legally responsible for their conduct in either case.<sup>178</sup>

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173 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, paras. 356, 452.

174 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 695; *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 203.

175 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 693.

176 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 1070.

177 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 363.

178 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 364.

134. **Occupation by Proxy:** As described in paragraph 38, military occupation may qualify as an act of aggression. Whether a territory is occupied turns on whether the occupying power has “effective control” over the concerned territory. The inquiry turns on: (1) the physical presence of the armed forces in the foreign territory, (2) the local government’s inability to exert its powers, and (3) the foreign forces’ exercise of authority over the territory.
135. In its merits judgment, the ECtHR confirmed that effective control over an area may be established through either direct control by the occupying State or indirect control by a subordinate local administration. This determination is fact-specific, with particular emphasis placed on the strength and character of the State’s military presence. The court has further held that the existence of a military occupation within the meaning of Article 42 of the Hague Regulations serves as a strong indicator of effective control for the purposes of Article 1 jurisdiction under the ECtHR. Even absent formal occupation, effective control may still be found where the occupying power provides substantial military, political, or economic support to local authorities, thereby exerting decisive influence over the territory.<sup>179</sup>
136. As described in the preceding section, there is evidence of the presence of Russian military forces at times during the conflict, which would satisfy at least the first part of this test. The ECtHR in its admissibility decision noted that military presence of Russian armed forces in eastern Ukraine could demonstrate effective control (for purposes of establishing extraterritorial justice) if that presence were sufficient.<sup>180</sup> While the court found that it was established beyond reasonable doubt that Russian military personnel were present in an active capacity in Donbas from at least April 2014 (as discussed in the preceding section),<sup>181</sup> it was unable to ascertain the exact number of Russian military personnel that fought in the non-state armed groups in Donbas from the outset, and thus could not establish beyond a reasonable doubt that Russia exercised effective control over Donbas from April 2014 by virtue solely of the military presence of its own *de jure* soldiers.<sup>182</sup>
137. Instead, it turned to other criteria relevant to establishing effective control over an area,<sup>183</sup> analyzing whether there was an “occupation by proxy” as set out in paragraph 38 above.
138. In Donbas, Russia occupied Ukrainian territory by proxy: (1) through its overall control over the DPR and the LPR; and (2) which together exercised effective control over the territory of Donbas, thereby constituting an act of aggression under Article 8 *bis* (2)(a) of the Rome Statute. This occupation began at the very latest by mid-July 2014.

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179 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 226.

180 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 578.

181 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 611.

182 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 611.

183 *Ukraine and the Netherlands v. Ukraine and the Netherlands v. Russia*

139. The first criterion is met. Russia exercised “overall control” over the DPR and the LPR by at least July 2014, with some indications of exerting influence and control over the DPR and LPR forces starting as early as April 2014.
140. The NGO Global Rights Compliance (GRC) details evidence that Russia supplied significant logistical support, including in the form of military equipment and supplies to the DPR and the LPR since approximately May–June 2014 until the present. Russia has provided financing, training, and equipment and played a role in organizing, coordinating, and planning their military actions.<sup>184</sup> Russia’s direct intervention, described above in paragraph 126, is an indicator of overall control.<sup>185</sup> Russia, along with the DPR and the LPR, also shared goals and military objectives, mainly to control territory in Donbas and greater integration with Russia.<sup>186</sup> Starting in at least July 2014, Russia transferred intelligence and military officers and personnel to Donbas to assist the DPR and the LPR forces, with many taking commanding positions and participating in the takeovers of administrative buildings in eastern Ukrainian cities.<sup>187,188</sup>
141. In its MH17 judgment, the District Court of The Hague (in considering whether Russia had overall control over the DPR for the purpose of determining whether the conflict had become internationalized), concluded that Russia exercised overall control over the DPR from mid-May 2014 until at least the downing of MH17 (i.e., July 17, 2014).<sup>189</sup> The court took note that several of the then-leaders of the DPR have Russian nationality, and a number of them have a background in Russian armed forces. Several DPR leaders maintained ties with persons from Russian intelligence services, the presidential administration, and the advisers to the Kremlin. In those contacts, help was regularly requested for manpower, military equipment, and training, and such support was provided. The court found that there was also a “plethora of indications” that Russia had “taken on a coordinating role and had issued instructions to the DPR.” The court also considered Russia’s direct participation and the fact that Russian troops would regularly move across the border.<sup>190</sup> The District Court of The Hague concluded that Russia exercised overall control over the DPR at the time of the incident on

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184 GRC Report, Section 4.1.2.3.2.

185 GRC Report, 153.

186 GRC Report, 154–61.

187 GRC Report, 161–70.

188 GRC Report, 181–90.

189 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 135.

190 Court of The Hague, The Netherlands, Case No. 09-748006/194. Judgement, November 17, 2022, <https://uitspraken.rechtspraak.nl/#/details?id=ECLI:NL:RBDHA:2022:12219>, Section 4.4.3.1.3.

July 17, 2014. The court noted that several DPR leaders were Russian nationals with backgrounds in Russian armed forces and intelligence services, and that there was substantial evidence of coordination and support from Russian authorities.<sup>191</sup>

142. In its admissibility decision in *Ukraine and the Netherlands v. Russia*, because the ECtHR could not find beyond a reasonable doubt that Russia exercised effective control over Donbas solely by virtue of its military presence, it took into consideration further criteria to assess whether Russia had effective control over Donbas. The court found that the available evidence supported the conclusion that by the time of the May 11, 2014, “referendums,” “the separatist operation as a whole was being managed and coordinated by the Russian Federation.” The appointment of various leaders of the major armed groups to key government positions established a clear command structure more clearly established, under the overall leadership of Igor Girkin, who had close relationships with the Russian government.<sup>192</sup> The court concluded that Russia, by virtue of its military presence in Donbas and “the decisive degree of influence and control it enjoyed over the areas under separatist control” in Donbas as a result of its military, political, and economic support to separatist entities, had effective control over Donbas starting from May 11, 2014.<sup>193</sup>
143. In its 2025 merits judgment, the ECtHR unequivocally corroborated that the Russian Federation exercised effective control over parts of the Donbas region from May 11, 2014, marking the outset of the conflict. The court found that armed separatist forces committed acts of violence against both civilian and military detainees in areas under Russia’s effective control, thereby affirming Russia’s responsibility under international law for conduct occurring in those territories.<sup>194</sup>
144. The court confirmed that effective control existed notwithstanding the existence of active hostilities, rejecting the broader interpretation of *Georgia v. Russia (II)* that suggested “a context of chaos” could negate jurisdiction under Article 1 of the ECtHR.<sup>195</sup>

191 District Court of The Hague, Case No. 09/748006/19, Judgment, November 17, 2022, Section 4.4.3.1.3, <https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBDHA:2022:12219>. In May 2025, the Council of the International Civil Aviation Organization (ICAO) voted that the Russian Federation failed to uphold its obligations under international air law in the 2014 downing of Malaysia Airlines Flight MH17, constitute a breach of Article 3 *bis* of the Convention on International Civil Aviation, which requires that states “refrain from resorting to the use of weapons against civil aircraft in flight.” ICAO, “ICAO Council Vote on Flight MH17 Case,” press release, May 12, 2025, <https://www.icao.int/Newsroom/Pages/icao-council-vote-on-flight-mh17-case.aspx>.

192 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 693.

193 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 695; *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, paras. 202, 328.

194 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 1070.

195 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 229.

145. In February 2015, the OHCHR reported that Russia was supplying the DPR and the LPR: “Credible reports indicate a continuing influx of heavy and sophisticated weaponry to armed groups in the Donetsk and Luhansk regions, as well as foreign fighters, including from the Russian Federation.”<sup>196</sup> These facts are indicative of Russia’s overall control over the armed groups.
146. The ICC OTP has also found that (for purposes of determining whether the otherwise non-international armed conflict involving Ukrainian armed forces and anti-government armed groups could in fact be international in character) “the Russian Federation may have exercised overall control over armed groups in eastern Ukraine for some or all of the armed conflict.”<sup>197</sup>
147. The UN Human Rights Monitoring Mission (HRMMU) in Ukraine reported in February 2015 that there were credible reports of a continuing influx of heavy and sophisticated weaponry to armed groups in the Donetsk and Luhansk regions, as well as foreign fighters, including from the Russian Federation.<sup>198</sup>
148. In sum, all of the above courts and institutions have agreed that Russia exercised overall control over the DPR and the LPR forces by at least July 2014, with some indications of exerting influence and control over the DPR and the LPR forces starting as early as April 2014.
149. The second criterion for occupation by proxy is similar to the inquiry in the classic occupation context: whether “the effective local government in place at the time of the invasion has been or can be rendered substantially or completely incapable of exerting its powers by virtue of the foreign forces’ unconsented-to presence.”<sup>199</sup>
150. The ECtHR’s 2025 merits judgment expanded on this concept of proxy control, stating that effective control exercised by a State through a local subordinate administration amounts to territorial jurisdiction over that area. The court emphasized that such control entails power and authority over the territory as a whole, and therefore the controlling State assumes responsibility under Article 1 of the ECtHR to secure the full range of rights within that territory.<sup>200</sup>

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196 OHCHR, *Report on the Human Rights Situation in Ukraine: 1 December 2014 to 15 February 2015*, February 15, 2015, para 104, <https://www.ohchr.org/en/documents/country-reports/report-human-rights-situation-ukraine-13>.

197 ICC OTP PE 2019, para. 277.

198 OHCHR, *Report on the Human Rights Situation in Ukraine*, February 15, 2015, para. 104.

199 *Supra* para. 29 (citing ICRC, *Commentary on the Third Geneva Convention*, para. 338).

200 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 351.

151. As described in the preceding section, between April and September 2014, the DPR and the LPR armed forces took over government buildings in the Donetsk and Luhansk regions. Separatists declared the independence of the DPR and the LPR on April 7, 2014, and April 27, 2014, respectively.<sup>201</sup> By April 30, 2014, the acting president of Ukraine announced that the Ukrainian government was no longer in full control of Donetsk and Luhansk.<sup>202</sup> The ECtHR underscored the “independence referendums” of May 11, 2014,<sup>203</sup> which led to the establishment of a *de facto* government and a joint declaration announcing the “Union of People’s Republic.”<sup>204</sup> During this period, Ukraine “continued to withdraw its public services, authorities, and funding.”<sup>205</sup> By September 2015, separatist units in Donbas were operating under the direct command of officers from the Russian armed forces.<sup>206</sup> Analysts have identified Russia’s Eighth Combined Arms Army (CAA), re-established in 2017 within the Russian Southern Military District, as overseeing and coordinating these separatist units.<sup>207</sup> On September 5, 2014, one of the ceasefire agreements was signed, after which Ukrainian forces withdrew to the contact line, and hostilities largely ceased.<sup>208</sup>
152. As such, the GRC concludes that, starting on September 5, 2014, the second criterion for establishing effective control for the purposes of occupation by proxy is satisfied in the territories defined by the Minsk Agreement.<sup>209</sup> In short, the second criterion is met because the DPR and the LPR exercised effective control and authority over Donbas, while the Ukrainian government itself conceded being incapable of exercising authority over the area on April 30, 2014.
153. Annexation: As set out in paragraphs 30-32, annexation results from a use of force and the occupying power acquiring all or part of the occupied territory and incorporating it as its own territory.
154. On April 24, 2019, the Russian president signed a decree allowing residents of Ukraine’s Donetsk and Luhansk regions to apply for Russian citizenship through a simplified procedure, citing humanitarian grounds.<sup>210</sup>

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201 Supra para. 115.

202 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 57; ICC OTP PE 2016, para. 160.

203 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 693; *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 51.

204 Supra para. 61.

205 GRC Report, 271.

206 International Crisis Group, *Russia and the Separatists in Eastern Ukraine*, Europe Report No. 231, February 5, 2016, pp. 5-7, <https://www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/russia-and-separatists-eastern-ukraine>.

207 Andrew S. Bowen, “Russian Troop Movements and Tensions along the Ukrainian Border,” Congressional Research Service, November 19, 2021, <https://www.congress.gov/crs-product/IN11806>.

208 GRC Report, 270-71.

209 GRC Report, 271.

210 Radio Free Europe/Radio Liberty, “Ukraine Cries Foul as Russia Offers Citizenship in Separatist Areas,” Voice of America, April 24, 2019, <https://www.voanews.com/a/putin-signs-decree-simplifying-russian-citizenship-for-ukraine-separatists-luhansk-donetsk/4889513.html>.

155. On February 21, 2022, the State Duma of the Russian Federation passed a bill to officially recognize the DPR and the LPR as independent states. The bill was approved by the Russian president.<sup>211</sup>
156. On September 30, 2022, after “referendums” in the Donetsk, Luhansk, Zaporizhzhia, and Kherson regions, President Putin declared that these regions of Ukraine would be formally incorporated into the Russian Federation and signed “treaties” to that effect.<sup>212</sup> On October 4, 2022, the Russian Federation enacted legislation formalizing the accession of the so-called DPR and the LPR into its territory.<sup>213</sup>
157. On July 31, 2023, the Russian Federation enacted a federal law retroactively extending its criminal jurisdiction over the DPR and the LPR for offences committed before September 30, 2022. Crimes against those entities were to be treated as crimes against Russia. Additionally, Russia formally recognized all judicial decisions issued in those territories before that date.<sup>214</sup>
158. As such, following the occupation of Donbas and invalid referendums conducted in the Donetsk, Luhansk, Zaporizhzhia, and Kherson regions, Russia therefore unlawfully annexed these regions in Donbas by signing treaties for their incorporation into the Russian Federation.
159. The UN General Assembly, in Resolution A/RES/ES-11/1 adopted on October 12, 2022, reaffirmed that no territorial acquisition resulting from the threat or use of force would be recognized as lawful under international law. It specifically condemned Russia’s organization of illegal “referendums” and attempted annexation of the Donetsk and Luhansk regions of Ukraine. The resolution declared these acts to be legally invalid, calling upon all states not to recognize any alteration of the status of these regions.<sup>215</sup>
160. The ECtHR, in its 2025 merits judgment, reaffirmed that the Russian Federation exercised continued effective control over the territories of the DPR and the LPR throughout the period falling within the court’s temporal jurisdiction. The court found that the Russian Federation exercised effective control both prior to and throughout the continuing period, from January 26, 2022, to September 16, 2022.<sup>216</sup>

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211 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 89.

212 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 92.

213 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 329.

214 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 330.

215 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 103.

216 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 331.

161. It concluded that there had been no diminution in the level of control exercised by the respondent State. On the contrary, the formalization of that control—through the purported “accession” of the territories to the Russian Federation, the retroactive application of the Russian criminal law, and the assimilation of the separatist entities’ interests to those of the Russian Federation—further confirmed the ongoing and consolidated nature of that control.<sup>217</sup>
162. The court held that the acts and omissions of the separatist authorities were attributable to the Russian Federation in the same manner as those of a subordinate administration of the State. This conclusion was based on Article 4 of the ARSIWA, on the basis that the separatist entities functioned as *de facto* organs of the Russian State. Following the formal annexation of these territories by the Russian Federation, the separatist authorities were regarded as *de jure* state organs under Russian domestic law, irrespective of the illegality of the annexation under international law.<sup>218</sup>
163. Put another way, effective control over a territory can be tantamount to annexation, if there is “effective occupation of the territory in question with the clear intention to take possession.” “Annexation can [even] result indirectly via an intermediary, for instance, *de facto* authorities. When *de facto* authorities effectively control territory and annexation takes place by another State, annexation would constitute effective control over the territory as understood in occupation law only when these *de facto* authorities are totally submitted to the will of the annexing State.” This has taken place under these circumstances.<sup>219</sup> Indeed, in its merits judgment, the ECtHR essentially reiterates the findings of the admissibility decision, confirming that Russia exercised effective control not only over the separatist armed groups, but also over the areas they administered.<sup>220</sup>

### **Russia bombarded and used weapons against Ukrainian territory, an act of aggression under Article 8 *bis* (2)(b) of the Rome Statute**

164. Russian armed forces bombarded and used weapons against Ukrainian territory in Donbas, constituting an act of aggression under Article 8 *bis* (2)(b) of the Rome Statute.

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217 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 331.

218 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 326.

219 Natia Kalandarishvili-Mueller, “Crimea and the Interrelationship between Military Occupation and Annexation,” Lieber Institute, September 10, 2024, <https://lieber.westpoint.edu/crimea-interrelationship-between-military-occupation-annexation>.

220 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 695.

165. Article 8 *bis* (2)(b) criminalizes “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.” This provision encompasses any attack from land, sea, or air bases with heavy weapons capable of destroying targets at greater distance beyond battle lines; and notably does not require entrance into or presence on the territory by the armed forces of the aggressor state.<sup>221</sup>

### *Cross-Border Artillery Attacks*

166. On July 11, 2014, Russian forces conducted cross-border artillery bombardment against the Ukrainian settlement of Zelenopillia in Luhansk Oblast, resulting in civilian casualties. Russia’s Ministry of Foreign Affairs acknowledged that the incident involved Russian territory but claimed it was retaliation for alleged Ukrainian shelling of Russian border areas, warning that such incidents could have “irreversible consequences.”<sup>222</sup> The attack was conducted using Grad multiple rocket launcher systems positioned within Russian territory and directed against Ukrainian civilian and military targets.<sup>223</sup> This incident marked a significant escalation in cross-border attacks and demonstrated Russia’s willingness to use state military assets against Ukrainian sovereignty.
167. The Zelenopillia attack formed part of a broader pattern of Russian cross-border bombardments documented throughout the summer of 2014. Intelligence assessments confirmed that well-equipped, uniformed armed groups appeared rapidly in Donetsk and Luhansk regions beginning in early April 2014, displaying levels of coordination, armament, and command structure inconsistent with spontaneous local militia.<sup>224</sup> The OSCE Special Monitoring Mission (SMM) documented multiple instances of artillery fire and ceasefire violations, recording almost 2,000 ceasefire violations including almost 1,500 explosions in the period preceding the February 2022 escalation.<sup>225</sup>
168. The ECtHR in its merits judgment outlined that reports of artillery shelling in eastern Ukraine date back to at least May 12, 2014. The court referenced OHCHR findings that, as early as June 2014, separatist forces were using heavy weaponry—including missiles and mortars—and conducting attacks from densely populated areas, putting civilians at risk. The OHCHR reported widespread destruction and civilian casualties from heavy shelling on both sides but could not definitively attribute specific incidents to either party.<sup>226</sup>
169. Throughout June and July 2014, armed groups in Donbas dramatically escalated their

221 Kreß, “The State Conduct Element,” 448.

222 Walker, “Ukraine’s Shelling Could Have Irreversible Consequences, Says Russia,” *The Guardian*, July 13, 2014, <https://www.theguardian.com/world/2014/jul/13/ukrainian-shell-russian-border-town-donetsk>.

223 See *supra* para. 115 (noting the influx of sophisticated Russian equipment including Grad rocket launchers).

224 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 51.

225 UN Security Council Statement by Vassily Nebenzia, noting, “Over [the] past 24 hours, OSCE SMM [Organization for Security and Co-operation in Europe Special Monitoring Mission] made records of almost 2,000 ceasefire violations, including almost 1,500 explosions,” February 23, 2023, <https://digitallibrary.un.org/record/3959147?v=pdf>.

226 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 639.

operations with sophisticated Russian equipment including Grad rocket launchers, T-64 and T-72 tanks, and MANPADS.<sup>227</sup> The ECtHR observed that armed groups operating in eastern Ukraine had been equipped with advanced weaponry, including a Buk-TELAR system supplied by the Russian Federation, capable of reaching targets at altitudes of up to 24 kilometers. This marked a significant escalation from earlier use of MANPADS and demonstrated a heightened level of military capability in the conflict zone.<sup>228</sup>

170. In late July 2014, a Buk missile system brought into Donetsk from Russia was used to shoot down Malaysian Airlines flight MH17, resulting in the deaths of 298 civilians. The Joint Investigation Team and Dutch court proceedings confirmed the Buk belonged to Russia's 53rd Anti-Aircraft Brigade and was deployed with Russian government knowledge.<sup>229</sup> The ECtHR expressly found that, had the Russian Federation not supplied the Buk-TELAR system or had it taken the requisite preventive measures, the deaths of the 298 civilians on board flight MH17 would not have occurred. Accordingly, the court concluded that the Russian Federation had violated the victims' right to life under Article 2 of the ECtHR.<sup>230</sup>
171. The ECtHR noted that in early September 2014, Mariupol came under heavy shelling as separatist forces advanced on the city. The court further recorded that on September 6, 2014, artillery fire was reported from Luhansk, then under control of the LPR, targeting Stanytsia Luhanska, which remained under Ukrainian control. It also referred to UN findings that most civilian deaths by that point had resulted in indiscriminate shelling, and that civilians evacuating Luhansk were allegedly shelled by separatist groups between Novosvitlivka and Khriashchuvate.<sup>231</sup>
172. The court stated that despite the Minsk Protocol ceasefire agreement of September 5, 2014, artillery fire and heavy shelling continued in the following months, with numerous incidents originating from DPR- and LPR-controlled territory and targeting government-held areas, resulting in civilian deaths, injuries, and damage to property.<sup>232</sup>
173. Russian bombardments constitute clear violations of Article 8 *bis* (2)(b) as they involved the systematic use of Russian state weapons against Ukrainian territory. The bombardments were conducted by Russian armed forces using state military equipment, directed from Russian territory against targets within Ukraine's sovereign territory, and formed part of Russia's broader campaign to support separatist forces and destabilize Ukrainian governmental control over Donbas.

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227 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 115.

228 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 435.

229 Joint Investigation Team, "Update in Criminal Investigation MH17"; see also The Hague District Court, Judgment in MH17 Case, November 17, 2022, Case No. C/09/571619.

230 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 438.

231 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 647.

232 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 648.

## **Russia sent armed bands, groups, irregulars, or mercenaries to carry out acts of armed force against Ukraine, an act of aggression under Article 8 *bis* (2)(g) of the Rome Statute**

174. Russia sent armed bands, groups, irregulars, and mercenaries to carry out acts of armed force against Ukraine in Donbas, constituting an act of aggression under Article 8 *bis* (2) (g) of the Rome Statute.
175. Article 8 *bis* (2)(g) criminalizes “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.” This provision requires that the armed groups perform acts equivalent in gravity to those enumerated in Article 8 *bis* (2)(a)–(f), and that the state either send these groups or be substantially involved in their operations.

### ***The Wagner Group as a Unit of the Russian Armed Forces***

176. The Wagner Group, a private military contractor linked to Yevgeny Prigozhin, functioned as an integral unit of the Russian armed forces in Donbas operations from 2014 onward. According to the Open Society Justice Initiative’s comprehensive analysis, Wagner personnel conducted large-scale complex military operations beginning in 2015 in Donbas and played a significant combat role in assaults on Popasna and Bakhmut and in the capture of Mariupol and Kherson.<sup>233</sup> A senior U.S. defense official reported in February 2022 that there were indications of Wagner Group presence in Ukraine, including in attempts to seize the Ukrainian capital.<sup>234</sup> The Ukrainian president allegedly survived multiple assassination attempts by the Wagner Group.<sup>235</sup>
177. Wagner’s operations demonstrated clear subordination to Russian military command and close ties to the Russian military apparatus.<sup>236</sup> The group’s leadership maintained direct communications with Russian intelligence services, including the FSB and

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233 Open Society Justice Initiative, “Accountability for Crimes of Personnel of the Wagner Group in Ukraine,” November 2023, 33–35, <https://www.justiceinitiative.org/uploads/a8de622f-bfbf-4cf5-99ba-f5b98b34f4ad/accountability-for-crimes-of-personnel-of-the-wagner-group-in-ukraine-en-20231108.pdf>.

234 Joyce Karam, “Russia Seeking to Encircle Ukraine’s Capital in ‘Coming Days’: Pentagon,” *The National News*, February 28, 2022, <https://www.thenationalnews.com/world/us-news/2022/02/28/russia-seeking-to-encircle-ukraines-capital-in-coming-days-pentagon/>.

235 Manveen Rana, “Volodymyr Zelensky Survives Three Assassination Attempts in Days,” *The Times*, March 3, 2022, <https://www.thetimes.com/world/russia-ukraine-war/article/zelensky-survives-three-assassination-attempts-in-days-xnstdfdfc?msockid=2ea85ac856b6684d05284cc6571b697a>.

236 Open Society Justice Initiative, “Accountability for Crimes of Personnel of the Wagner Group” 42–47.

GRU, and embedded within separatist armed groups from the earliest stages.<sup>237</sup> This command integration was evidenced by the coordinated timing of Wagner operations with regular Russian military activities and unified tactical objectives that aligned precisely with Russian state policy.

178. Wagner's extensive operations in Donbas required substantial financial resources and sophisticated military equipment that could only be provided by state-level support. The group utilized advanced Russian military hardware as part of the influx of sophisticated equipment to armed groups including T-64 and T-72 tanks, sophisticated artillery systems, and MANPADS.<sup>238</sup> The provision of such equipment, combined with the logistics required to maintain sustained combat operations, demonstrated that Wagner functioned as an extension of Russian state military capacity.
179. In its 2025 judgment, the ECtHR noted that torture had been committed by members of the Wagner Group, alongside state agents including the Russian armed forces, the FSB, the National Guard and its subordinate units, and personnel of the Federal Penitentiary Service, against detainees in occupied Ukrainian territory, underscoring coordinated conduct attributable to the Russian Federation.<sup>239</sup>
180. Wagner's legal status under Russian domestic law supports its characterization as a unit of the Russian armed forces. While Russia formally prohibits private military companies under Federal Law No. 40-FZ, "On the Federal Security Service,"<sup>240</sup> Wagner operated with apparent state sanction and protection. Russian authorities consistently declined to prosecute Wagner personnel for violations of domestic mercenary laws, and the group's operations aligned with official Russian foreign policy objectives.
181. Under the "overall control" test established in *Tadić* and endorsed by international criminal tribunals,<sup>241</sup> Russia exercised the requisite level of control over Wagner to render the group's actions attributable to the Russian State. The test requires that a state party to the conflict "has a role in organizing, coordinating, or planning the military actions of the military group, in addition to financing, training, and equipping or providing operational support to that group."<sup>242</sup> The Open Society Justice Initiative concluded that Wagner was under the "overall control" of Russia based on its close ties to the Russian military apparatus,<sup>243</sup> which satisfies the requirements for state

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237 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 51.

238 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 115.

239 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 928.

240 Federal Law No. 40-FZ, "On the Federal Security Service," February 22, 1995, unofficial English translation by the Council of Europe, <https://www.coe.int/en/web/venice-commission/-/CDL-REF%282012%29011-e?>.

241 *Prosecutor v. Tadić*, Appeals Chamber, ICTY, Case No. IT-94-1-A, July 15, 1999, para. 137, <https://www.icty.org/en/cases/judgement-list#1999>.

242 *Prosecutor v. Tadić*, Appeals Chamber, ICTY, Case No. IT-94-1-A, July 15, 1999, para. 137.

243 Open Society Justice Initiative, "Accountability for Crimes of Personnel of the Wagner Group," 55–57.

responsibility under international law. Wagner conducted large-scale military operations in Donbas that meet the gravity threshold required under Article 8 *bis* (2)(g). These operations included complex assaults on Ukrainian positions, participation in the siege of strategic locations, and commanding roles in separatist military units. Since the reported death of Wagner Group leader Yevgeny Prigozhin and the Wagner Group's mutiny, other private military and security companies, including Redut, have taken over operations in Ukraine.<sup>244</sup>

### *Other Russian-Controlled Armed Groups*

182. Beyond Wagner, Russia deployed regular military personnel and intelligence operatives within separatist armed groups from the earliest stages of the conflict. The ECtHR in its admissibility decision established beyond reasonable doubt that Russian military personnel were present in an active capacity in Donbas from at least April 2014.<sup>245</sup> The court found that senior members of the Russian military were present in command positions in the separatist armed groups and entities from the outset.<sup>246</sup>
183. Starting in at least July 2014, Russia transferred intelligence and military officers and personnel to Donbas to assist the DPR and the LPR forces, with many taking commanding positions and participating in the takeovers of administrative buildings in eastern Ukrainian cities.<sup>247</sup> On August 27, 2014, NATO publicly confirmed that Russian regular military units, including airborne troops and armored battalions, had crossed into Ukraine in the area south of Donetsk, leading to the encirclement of Ukrainian forces near Ilovaik.<sup>248</sup> The OHCHR reported in February 2015 credible reports of a continuing influx of heavy and sophisticated weaponry to armed groups in the Donetsk and Luhansk regions, as well as foreign fighters, including from the Russian Federation.<sup>249</sup>
184. The GRC report details evidence that Russia supplied significant logistical support, including military equipment and supplies, to the DPR and the LPR since approximately May–June 2014. Russia provided financing, training, and equipment and played a role in organizing, coordinating, and planning their military actions.<sup>250</sup>

244 Matthew Luxmoore, "Russian Private Military Companies Move to Take Over Wagner Fighters," Wall Street Journal, September 5, 2023, <https://www.wsj.com/world/russia/russian-private-military-companies-move-to-take-over-wagner-fighters> a568f938?gaa\_at=eafs&gaa\_n=ASWzDAGf5i0tv2\_67KZwTpB8CE2bnXWQFBuuW3y1x4KbL4YGcvfmd4l-Jyat1MO\_NO8w%3D&gaa\_ts=68a7d399&gaa\_sig=nvOu4QUU5A8e17dAl3mJr6WvmhIUFXg7KRf0yENRaSG21K6qUNbeu-gUXM2bqNfpauLB2bbLntCDBp3EGFmQjCw%3D%3D.

245 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 693.

246 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 693.

247 GRC, "International Law and Defining Russia's Involvement in Crimea and Donbas," 271.

248 NATO, SACEUR, press briefing, August 29, 2014, [https://www.nato.int/cps/en/natohq/news\\_112210.htm](https://www.nato.int/cps/en/natohq/news_112210.htm).

249 OHCHR, *Report on the Human Rights Situation in Ukraine*, February 15, 2015, para. 104.

250 GRC Report, 270–71.

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185. The District Court of The Hague concluded that Russia exercised overall control over the DPR at the time of the MH17 downing (July 17, 2014), noting that several DPR leaders were Russian nationals with backgrounds in the Russian armed forces and intelligence services.<sup>251</sup> The court found substantial evidence of coordination and support from Russian authorities, with regular requests for and provision of manpower, military equipment, and training.<sup>252</sup>
186. The ECtHR has similarly concluded that the Russian Federation exercised effective control (a heightened standard) over the separatist entities in the DPR and the LPR, such that all acts and omissions of the Russian armed forces and those of the separatist groups were attributable to the Russian Federation under international law.<sup>253</sup>
187. Russia’s deployment of Wagner and other armed groups in Donbas, combined with its substantial involvement in their operations, constitutes a clear violation of Article 8 *bis* (2) (g). These groups carried out acts of armed force against Ukraine equivalent in gravity to invasion and occupation, and Russia exercised effective control over their operations to render their actions attributable to the Russian state under international law.

## **RUSSIA’S ACTS OF AGGRESSION CONSTITUTE MANIFEST VIOLATIONS OF THE UN CHARTER**

188. Russia’s acts of aggression in Donbas constitute a “manifest violation” of the UN Charter because of their “character, gravity, and scale,” according to the meaning of Article 8 *bis* (1). As noted, only two of the three prongs are required; here, all three are met.

### **Russia’s acts of aggression are manifest violations by their character**

189. According to the standard set out in paragraphs 18–19 above, Russia’s acts of aggression in Donbas constitute manifest violations of the UN Charter in that Russia’s claims to having acted in self-defense are unfounded and the annexation represents another form of Russia’s use of force.
190. No applicable exception to prohibition against use of force: Like with Crimea, Russia has sought to justify its invasion, occupation, and annexation of Donbas, seemingly as an act of collective self-defense, based on statements from various Russian officials, as set out below. The factual circumstances do not support any of these self-defense arguments.

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251 The Hague District Court, MH17 Judgment, November 17, 2022, Section 4.4.3.1.3.

252 The Hague District Court, MH17 Judgment, November 17, 2022, Section 4.4.3.1.3.

253 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, paras. 331, 362, 363, 366.

191. Over the years, and starting as early as 2014, President Putin has repeatedly referred to “Russophobia” and issues of discrimination against Russian speakers beyond Russia’s borders, many of whom live in Donbas. He has repeatedly suggested that “what is happening in Donbas” “certainly looks like genocide.”<sup>254</sup>
192. On March 4, 2014, President Putin publicly declared that Russia reserved the right to use all means to protect “Russian speakers” in Ukraine and that this extended beyond Crimea. He stated that Russia would respond if violence were used against Russian populations in the east, laying the political foundation for intervention in Donbas.<sup>255</sup>
193. Following the full-scale invasion of Ukraine (as discussed in the following section), President Putin claimed in his speech that the decision “to conduct a special military operation” was done to protect the two purported “republics,” pursuant to “the treaties on friendship and mutual assistance with the Donetsk People’s Republic and the Lugansk People’s Republic, as ratified by the Federal Assembly on 22 February this year.”<sup>256</sup> President Putin noted that Russia had received a request for help from “The People’s Republics of Donbas.”<sup>257</sup>
194. According to the collective self-defense argument, Russia would purportedly be using force in collective self-defense to protect the DPR and the LPR.
195. But Russia could not legally resort to collective self-defense to protect the DPR and the LPR as these entities are not states under international law, which is required to give rise to collective self-defense or a request for forcible assistance from Russia. Russia’s military action was in any case neither necessary nor proportionate. This is addressed in further detail below.
196. First, the DPR and the LPR are not states under international law capable of exercising the right to self-defense or to request assistance. Russia recognized the DPR and the LPR on February 21, 2022, as independent states.<sup>258</sup> However, the mere fact of Russia recognizing these two allegedly independent states does not make these two entities into states. Article 1 of the Montevideo Convention on Rights and Duties of States lays down the criteria of statehood in international law: (a) a permanent population, (b) a defined territory, (c) government, and (d) capacity to enter into relations with other states. The DPR and the LPR do not fulfil these four criteria. According to the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of

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254 See, e.g., Al Jazeera, “‘Smells of Genocide’: How Putin Justifies Russia’s War in Ukraine,” March 9, 2022, <https://www.aljazeera.com/news/2022/3/9/smells-of-genocide-how-putin-justifies-russias-war-in-ukraine>; BBC, “Putin Compares Donbas War Zone to Genocide,” December 10, 2021, <https://www.bbc.com/news/world-europe-59599066>.

255 Press conference of President Putin, March 4, 2014, [Kremlin.ru](http://en.kremlin.ru/events/president/news/20366), transcript available at <http://en.kremlin.ru/events/president/news/20366>; cited in *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Merits) of June 25, 2024, para. 93.

256 Appendix, para. 38.

257 Appendix, para. 37.

258 A translation of the transcript in English is available on the official website of the President of the Russian Federation: <http://en.kremlin.ru/events/president/transcripts/67828>.

the Council of Europe, “[t]here can be no doubt that the ‘DPR’ and ‘LPR’ are wholly dependent on Russia.”<sup>259</sup> The two entities controlled only a portion of their alleged state territory when Russia recognized them. The entities had established control of only parts of their purposed state territory. This is reflected in the language adopted in the General Assembly resolution overwhelmingly condemning the aggression against Ukraine and the purported change in status only “of certain areas of the Donetsk and Luhansk regions of Ukraine.”<sup>260</sup>

197. The right to self-defense and the right to request forcible assistance by another State in self-defense are limited to states. President Putin claims that the People’s Republics of Donbas requested Russia’s assistance. However, as these two entities are not states, any request for assistance made by no-state actors in two territories of Ukraine does not trigger Russia’s right to exercise collective self-defense to protect these two entities.
198. Second, as the DPR and the LPR are not states, they cannot be the victims of an armed attack triggering the right to self-defense. Any forcible operations conducted by Ukrainian forces in the east of Ukraine would amount either to law enforcement operations or a non-international armed conflict, as opposed to an armed attack triggering the right to individual or collective self-defense.
199. Third, as the DPR and the LPR are not states under international law, Russia was prevented from intervening in Ukraine upon a request from these non-state actors. The ICJ stated in Nicaragua that the principle of non-intervention would “lose its effectiveness as a principle of law if intervention were to be justified by a mere request for assistance made by an opposition group in another State.”<sup>261</sup> Consequently, a State has no right to intervene, militarily or otherwise, in the internal affairs of another State upon a request for assistance of non-state actors in the territory of this other State. Russia’s intervention in Ukraine in response to a request for assistance by non-state actors in these territories would violate the principle of non-intervention.
200. Fourth, regardless of the status of the DPR and the LPR under international law, Russia would be required to abide by the preconditions for the use of self-defense. As discussed in paragraphs 84–93 above with respect to Crimea and in paragraphs 265–267 below with respect to the full-scale invasion, Russia’s use of force in Ukraine was not preceded by an armed attack and it has been neither necessary nor proportionate. Nor is there any evidence that the “protection of nationals abroad” doctrine applies here, for reasons similar to those described with respect to Crimea in paragraph 92 above.

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259 Report from Committee on Legal Affairs and Human Rights, *Legal Remedies for Human Rights Violations on the Ukrainian Territories Outside the Control of the Ukrainian Authorities*, September 26, 2016, <https://pace.coe.int/en/files/23007#trace-2>, para. 56.

260 UN General Assembly Resolution ES-11/1 of March 18, 2022, para. 5.

261 Case Concerning Military and Paramilitary Activities In and Against Nicaragua (*Nicaragua v. United States of America*), ICJ Reports, 1986, 126.

201. The UN General Assembly, in Resolution A/RES/ES-11/4 adopted on October 12, 2022, affirmed that the Russian Federation's attempted annexation of Ukrainian territory violated the principles of the UN Charter.<sup>262</sup>
202. In its merits judgment, the ECtHR noted the unprecedented nature of the intervention by 26 High Contracting Parties, highlighting the significance they attributed to the case within the broader Convention system. In their joint submissions, these states unanimously asserted that the Russian Federation had violated Article 2(4) of the UN Charter through its act of aggression, echoing the condemnation expressed by the UN General Assembly.<sup>263</sup>

### **Russia's acts of aggression are manifest violations by their gravity**

203. Russia's acts of aggression in Donbas had substantial gravity, as evidenced by the scale of casualties, systematic human rights abuses, and severe disruption to civilian life.
204. The armed conflict between Russian-backed forces and the Ukrainian government resulted in significant loss of life across multiple phases. In the initial period between April 14 and June 3, 2014, the UN documented 181 fatalities, including both military personnel and civilians.
205. There was a high number of human casualties in eastern Ukraine as a result of the armed conflicts between the Russian-backed armed groups and the government of Ukraine. For example, between April 14 and June 3, 2014, 181 people were killed, including servicemen and residents.<sup>264</sup> Furthermore, members of the DPR were found to be responsible for shooting down Malaysia Airlines flight MH17 on July 17, 2014, causing the deaths of its 298 occupants, in a criminal proceeding carried out by the Criminal Court of The Hague in The Netherlands.<sup>265</sup> Between 2014 and 2021, the conflict in Donbas resulted in over 14,000 deaths, including civilians, Ukrainian forces, and separatist fighters.<sup>266</sup> The OHCHR documented numerous human rights violations, including arbitrary detention, torture, and enforced disappearances, committed by armed groups in the region.

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262 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 103.

263 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, paras. 156, 157.

264 OHCHR, *Report on the Human Rights Situation in Ukraine*, June 15, 2014, para. 166.

265 Court of The Hague, Judgment, Case No. 09-748006/194.

266 OHCHR, *Report on the Human Rights Situation in Ukraine: 1 August 2021 to 31 January 2022*, March 28, 2022, para. 12, [https://www.ohchr.org/sites/default/files/2022-03/HRMMU\\_Update\\_2022-03-26\\_EN.pdf](https://www.ohchr.org/sites/default/files/2022-03/HRMMU_Update_2022-03-26_EN.pdf).

206. Civilian life was seriously disturbed in these regions because of the *de facto* control that separatist groups had in the occupied territories. In May 2014, the HRMMU reported:

This has contributed to a situation where armed persons, now formed into illegal groups, operate and run towns with impunity, for example in the town of Slovyansk located in the northern part of the Donetsk region. There has been a noted shift of apparent “control” from the “political base” of the “Donetsk People’s Republic” in Donetsk, to the “armed operations base” of the “Slovyansk self-defence unit” in Slovyansk.

The HRMMU is concerned with the undermining of human rights protection and guarantees of fundamental freedoms for the population of the town where buildings are occupied by armed persons, as well as the broader population of eastern Ukraine. Specifically, the HRMMU is concerned about the rise in the number of reported cases of intimidation, harassment and killings, as well as the wave of abductions and unlawful detentions of journalists, activists, local politicians, representatives of international organizations and members of the military.<sup>267</sup>

207. The number of civilian deaths and significant human rights violations meet the required threshold of gravity so as to serve as the basis for a finding of manifest violation.

### **Russia’s acts of aggression in Donbas are manifest violations by their scale**

208. As set out in paragraph 23 above, acts of aggression must also be a manifest violation by their scale. Russia’s acts of aggression in Donbas display the required scale.
209. Based on satellite images taken between late March and early April 2014, showing how Russia massed military equipment on the eastern border of Ukraine, NATO reported that “Russian forces in the vicinity of the border with Ukraine number in the range of 35,000 to 40,000 troops and are equipped with infantry fighting vehicles, tanks, combat aircraft, logistics, and artillery”<sup>268</sup>

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267 OHCHR, *Report on the Human Rights Situation in Ukraine*, May 15, 2014, paras. 93–94.

268 NATO, Supreme Headquarters Allied Powers Europe, “NATO Defends Accuracy of Satellite Images with Additional Proof,” April 11, 2014, [https://www.nato.int/cps/en/natolive/news\\_109088.htm](https://www.nato.int/cps/en/natolive/news_109088.htm).

210. In July 2014, Russia reportedly provided the separatist groups with heavy artillery, such as T-64 battle tanks, Grad rocket launchers, 2S9 Nona self-propelled guns, BMP-2 infantry combat vehicles, and Buk surface-to-air missile systems.<sup>269</sup> Furthermore, on August 27, 2014, the International Institute for Strategic Studies identified a Russian T-72 tank in a separatist column in the Luhansk region.<sup>270</sup>
211. The ECtHR concluded that by May 11, 2014, the entire separatist operation in Donbas was being managed and coordinated by the Russian Federation. It accepted that large numbers of Russian troops had been deployed along the border in spring 2014 in preparation for cross-border military engagement. Russian forces had established training camps near the frontier, supplied arms and heavy equipment on a significant scale, and embedded senior Russian military officials within separatist command structures. The centralized coordination of strategy (including between the DPR and the LPR), along with the provision of advanced weaponry (such as the Buk-TELAR system) demonstrated that the Russian Federation's military involvement was not sporadic or peripheral, but substantial and systematic in scale.<sup>271</sup>
212. Thus, Russia's acts of aggression in Ukraine constitute a manifest violation of the UN Charter because of their evident illegality and because of their scale and gravity.

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269 Jeremy Bender, "Here Are the Arms Russia Has Given to Rebels in Ukraine to 'Create a Proper Army,'" *Insider*, July 24, 2014, <https://www.businessinsider.com/arms-russia-has-given-to-rebels-in-ukraine-2014-7>.

270 NATO Association of Canada, "Crisis in Ukraine: Thousands of Russian Soldiers and Arms Continue to Flow into Ukraine through the Unregulated Eastern Border," September 5, 2014, <https://natoassociation.ca/crisis-in-ukraine-thousands-of-russian-soldiers-and-arms-continue-to-flow-into-ukraine-through-the-unregulated-eastern-border/>.

271 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 356.

# PHASE III: FULL-SCALE INVASION (FEBRUARY 2022– AUGUST 2025)

213. Russia has committed acts of aggression by using armed force against the sovereignty, territorial integrity, and political independence of Ukraine, as part of its 2022 full-scale invasion, which continues to this day. These acts of aggression constitute manifest violations of the UN Charter.

## **RUSSIA USED ARMED FORCE AGAINST THE SOVEREIGNTY, TERRITORIAL INTEGRITY, AND POLITICAL INDEPENDENCE OF UKRAINE**

214. This section demonstrates that various acts of aggression were committed, or continue to be committed, in Ukraine as a result of the full-scale invasion beginning in February 2022. The information provided here to substantiate each act of aggression is not exhaustive, given the gravity and scale of the aggression, as well as its duration. Most of the evidence focuses on the immediate aftermath of the Russian invasion since these are acts that readily demonstrate the role of Russian officials who had the authority to plan, prepare, initiate, or execute acts of aggression. As noted in paragraph 50, it is arguable that the initial preparation and execution of acts of aggression persists over time through ongoing execution of the unlawful use of force.

## **Russia invaded, attacked, and occupied the territory of Ukraine, an act of aggression under Article 8 *bis* (2)(a) of the Rome Statute**

215. Russian armed forces invaded and attacked the territory of Ukraine, and such invasion and attacks have resulted in military occupation of parts of the territory of Ukraine, according to the meaning of Article 8 *bis* (2)(a).
216. Russian armed forces initiated a major military invasion and attack on Ukraine on February 24, 2022.<sup>272</sup> At approximately 5:00 a.m. (Ukrainian time), shortly after President Putin declared in a televised speech the start of a “special military operation”

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272 “Putin’s Forces Attack Ukraine,” New York Times, February 23, 2022, updated March 14, 2022, <https://www.nytimes.com/live/2022/02/24/world/russia-ukraine-putin>; OHCHR, “Human Rights Council Begins Urgent Debate on Situation of Human Rights in Ukraine Stemming from the Russian Aggression,” March 3, 2022, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28197&LangID=E>.

seeking the “demilitarization and denazification” of Ukraine,<sup>273</sup> Russian troops crossed the border from multiple directions. Russian strikes and assaults were documented in various cities, including the capital Kyiv, Kharkiv, Ukraine’s second-largest city, and cities ranging from Ivano-Frankivsk in the west to Odesa and Mariupol in the south on February 24, 2022.<sup>274</sup> The Ukrainian government asserted that at least eight people had been killed and nine injured by the Russian shelling on the first day of the invasion.<sup>275</sup>

217. The assault has continued since. By the close of March 1, 2022, the OHCHR had recorded and confirmed that Russia’s military attack on Ukraine had resulted in at least 752 civilian casualties, including 227 killed, 15 of them children.<sup>276</sup> By the close of March 13, 2022, the OHCHR had recorded 1,761 civilian casualties in the country: 636 killed and 1,125 injured.<sup>277</sup> In the two years since the Russian invasion, as of February 15, 2024, the OHCHR had recorded 30,457 civilian casualties (10,582 killed and 19,875 injured).<sup>278</sup> As of August 2024, the HRMMU had verified that conflict-related violence had killed 11,743 civilians and injured 24,614 in Ukraine since February 24, 2022.<sup>279</sup> As of August 2025, HRMMU has documented the deaths of at least 13,883 civilians, including 726 children, and 35,548 injured, including 2,234 children.<sup>280</sup>
218. The Russian invasion and attacks on the territory of Ukraine have resulted in the occupation by Russian troops of parts of the territory of Ukraine. For instance, the mayor of Melitopol, a city in southeastern Ukraine, announced on March 1, 2022, that Russian forces were occupying the city.<sup>281</sup> A map published by the Institute for the Study of War illustrates the wide areas of Ukraine occupied by Russian forces as of March 13, 2022.<sup>282</sup>

- 273 The original transcript is available on the official website of the President of the Russian Federation: <http://kremlin.ru/events/president/news/67843>. A translation of the speech in English is available on the official website at <http://en.kremlin.ru/events/president/transcripts/67843> and in the “Letter Dated 24 February 2022 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General,” S/2022/154, <https://undocs.org/en/S/2022/154>.
- 274 Michael Birnbaum, Mary Ilyushina, Paul Sonne, and Isabelle Khurshudyan, “Russia Unleashes Military Assault on Ukraine That Biden Calls ‘Premeditated War,’” *New York Times*, February 24, 2022, <https://www.washingtonpost.com/national-security/2022/02/23/russia-attack-ukraine/>.
- 275 Al Jazeera, “Kyiv Says 8 Killed; Moscow Says Not Targeting Ukraine Cities,” February 24, 2022, <https://www.aljazeera.com/news/2022/2/24/russia-says-not-targeting-ukraine-cities-kyiv-claims-8-killed>.
- 276 OHCHR, “Human Rights Council Begins Urgent Debate.”
- 277 OHCHR, “Ukraine: Civilian Casualty Update,” March 14, 2022, <https://ukraine.un.org/sites/default/files/2022-03/Ukraine%20-%20civilian%20casualty%20update%20as%20of%2024.00%2013%20March%202022%20ENG.pdf>.
- 278 OHCHR, *Report of the Independent International Commission of Inquiry on Ukraine*, A/HRC/55/66, March 18, 2024, para. 9, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/a-hrc-55-66-aev.pdf>.
- 279 OHCHR, “Ukraine: Worsening Impact on Civilians of Russia’s Attack, Torture of Prisoners of War,” October 1, 2024, <https://www.ohchr.org/en/press-briefing-notes/2024/10/ukraine-worsening-impact-civilians-russias-attack-torture-prisoners>
- 280 OHCHR, “Number of Civilians Killed or Injured in Ukraine Reaches Three-Year Monthly High in July 2025, UN Human Rights Monitor Say,” August 13, 2025, <https://ukraine.ohchr.org/en/Number-of-civilians-killed-and-injured-in-Ukraine-reaches-three-year-monthly-high-in-July-2025-UN-human-rights-monitors-say>.
- 281 Marina Korobova, “Мелітополь не сдался, Мелітополь – временно оккупирован” – городской голова о ситуации на 1 марта” [“Melitopol did not surrender, Melitopol is temporarily occupied” – the mayor on the situation on March 1”], *Mestnyye Vesti*, March 1, 2022, [https://en.wikipedia.org/wiki/2022\\_Russian\\_invasion\\_of\\_Ukraine#cite\\_note-243](https://en.wikipedia.org/wiki/2022_Russian_invasion_of_Ukraine#cite_note-243).
- 282 Mason Clark, George Barros, and Kateryna Stepanenko, “Russian Offensive Campaign Assessment,” Institute for the Study of War & AEI’s Critical Threats Project, March 13, 2022, 2, <https://www.understandingwar.org/sites/default/files/Russian%20Operations%20Assessments%20Mar%2013.pdf>.

219. As of May 2024, Ukraine had recaptured 54 percent of occupied territory, while Russia still occupied 18 percent of the country. Ukraine's counteroffensive efforts had stalled, and Russia had opened a new front in Ukraine's northeast Kharkiv region. Meanwhile, as further detailed below, Russia continued to bombard Ukrainian cities and blockade its ports, and Ukraine stepped up drone attacks on Russian ships and infrastructure.<sup>283</sup>
220. A map published by the Institute for the Study of War illustrates the wide areas of Ukraine that remain occupied by Russian forces as of August 1, 2025, notwithstanding Ukraine recapturing some of the previously occupied territory.<sup>284</sup>

### **Russia has bombarded and used weapons against the territory of Ukraine, an act of aggression under Article 8 *bis* (2)(b) of the Rome Statute**

221. Russian armed forces have bombarded and used weapons against the territory of Ukraine, according to the meaning of Article 8 *bis* (2)(b).
222. Russian armed forces launched an estimated 100 missiles, including a mix of short- and medium-range ballistic missiles, cruise missiles, and sea-launched missiles, in the early hours of February 24, 2022.<sup>285</sup>
223. The spokesperson of the OHCHR, Liz Throssell, reiterated on March 11, 2022, grave concern for "the rising death toll and human suffering in Ukraine."<sup>286</sup> The statement notes the effect of "what appear to be indiscriminate attacks, with Russian forces using explosive weapons with wide area effects in or near populated areas." Such explosive weapons included "missiles, heavy artillery shells and rockets, as well as airstrikes." On March 14, 2022, the OHCHR stressed that most of the civilian casualties were caused "by the use of explosive weapons with a wide impact area, including shelling from heavy artillery and multi-launch rocket systems, and missile and air strikes."<sup>287</sup> By February 2024, the OHCHR estimated that attacks with explosive weapons caused numerous civilian casualties and affected civilian buildings, including 8,898 killed and 18,818 injuries.<sup>288</sup>

283 Council on Foreign Relations, "Global Conflict Tracker: War in Ukraine," May 20, 2024, <https://www.cfr.org/global-conflict-tracker/conflict/conflict-ukraine> (internal citations omitted).

284 Institute for the Study of War & AEI's Critical Threats Project, "Russian Offensive Campaign Assessment" August 1, 2025, 9, <https://www.understandingwar.org/sites/default/files/August%201%2C%202025%20ROCA%20%5BPDF%5D.pdf>.

285 Clark et al., "Russia-Ukraine Warning Update," 1, based on reports from Brian Everstine, [https://twitter.com/beverstine/status/1496869155420934153?s=20&t=IIXt0iyFgu5kUQz2eL\\_Vog](https://twitter.com/beverstine/status/1496869155420934153?s=20&t=IIXt0iyFgu5kUQz2eL_Vog).

286 Press briefing notes on Ukraine: "Grave Concerns," March 11, 2022, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28262&LangID=E>.

287 OHCHR, "Ukraine: Civilian Casualty Update."

288 OHCHR, *Report of the Independent International Commission of Inquiry on Ukraine*, A/HRC/55/66, March 18, 2024, para. 25, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/a-hrc-55-66-aev.pdf>.

224. Russian naval forces continued to conduct missile strikes against targets throughout Ukraine, according to an intelligence update from the British Ministry of Defence on March 13, 2022.<sup>289</sup>
225. As of February 2022, the following Ukrainian cities had notably come under heavy Russian bombardments: Kharkiv,<sup>290</sup> Kherson,<sup>291</sup> Mariupol,<sup>292</sup> and Kyiv.<sup>293</sup> According to a *New York Times* tally of air-related attacks, as of March 12, 2022, at least 67 Ukrainian towns and cities had been hit by aerial bombardment since the start of the invasion.
226. Russia then began to amass troops in an attempt to seize eastern Ukraine. In April 2022, Russia struck a crowded Kramatorsk train station in eastern Ukraine using cluster munitions, killing dozens of civilians.<sup>294</sup>
227. By May 2022, after an eight-week siege, Russian forces had taken control of Mariupol, which included indiscriminate and targeted attacks against civilians in the city.<sup>295</sup>
228. In late June 2022, Russian forces launched a large-scale cruise missile attack on locations across Ukraine. The missiles were launched from bombers in Belarusian airspace, from warships in the Black Sea, and from aircraft flying over the Caspian Sea.<sup>296</sup>

- 289 British Ministry of Defence, "Intelligence update, update on Ukraine," March 13, 2022, [https://twitter.com/DefenceHQ/status/1503120744280170501?s=20&t=7YBIENR6xG7sACp\\_3cQG0Q](https://twitter.com/DefenceHQ/status/1503120744280170501?s=20&t=7YBIENR6xG7sACp_3cQG0Q).
- 290 See e.g., "Russia-Ukraine War: Destruction in Kharkiv After Bombardment," Al Jazeera, March 8, 2022, <https://www.aljazeera.com/news/2022/3/8/its-barbaric-kharkiv-residents-devastated-by-russian-bombing>; Andrey Poznyakov, "The Next Night Was Hell: Life Amid Russia's Bombardment of Kharkiv," Euronews, March 11, 2022, <https://www.euronews.com/2022/03/10/ukraine-war-how-one-woman-survived-and-escaped-russia-s-bombardment-of-kharkiv>; Luke Harding, "Horrendous' Rocket Attack Kills Civilians in Kharkiv as Moscow 'Adapts Its Tactics,'" *The Guardian*, March 1, 2022, <https://www.theguardian.com/world/2022/feb/28/ukraine-several-killed-by-russian-rocket-strikes-in-civilian-areas-of-kharkiv>.
- 291 Michael Schwartz and Richard Pérez-Peña, "First Ukraine City Falls as Russia Strikes More Civilian Targets," *New York Times*, March 2, 2022, <https://www.nytimes.com/2022/03/02/world/europe/kherson-ukraine-russia.html>.
- 292 Mostafa Rachwani, "Mariupol Bombing: Before and After Satellite Images Show Destruction in Ukraine City," *The Guardian*, March 10, 2022, <https://www.theguardian.com/world/2022/mar/10/mariupol-bombing-ukraine-before-and-after-satellite-images-map-russian-attack-residential-maternity-childrens-hospital>, which notes that targets have included "numerous residential houses, a children's and maternity hospital, the main administration service building, and the city's giant Avostal metallurgical factory"; Deutsche Welle, "Ukraine: Satellite Images Show Infrastructure Damage in Mariupol—as It Happened," March 12, 2022, <https://www.dw.com/en/ukraine-satellite-images-show-infrastructure-damage-in-mariupol-as-it-happened/a-61104419>.
- 293 "Ukrainian Officials Report Missile Attacks in Kyiv," *New York Times*, March 13, 2022, <https://www.nytimes.com/live/2022/02/24/world/russia-attacks-ukraine>; Aleksandar Vasovic, "Russia Bombards Ukraine Urban Areas as Armed Convoy Stalls," Reuters, March 2, 2022, <https://www.reuters.com/world/europe/russian-isolation-intensifies-ukraine-fighting-rages-2022-03-01/>.
- 294 Human Rights Watch, "Death at the Station: Russian Cluster Munition Attack in Kramatorsk," February 21, 2023, <https://www.hrw.org/video-photos/interactive/2023/02/21/death-at-the-station/russian-cluster-munition-attack-in-kramatorsk>.
- 295 Becky Sullivan and Laurel Wamsley, "Mariupol Has Fallen to Russia. Here's What That Means for Ukraine," NPR, May 19, 2022, <https://www.npr.org/2022/05/18/1099885151/mariupol-falls-ukraine-russia-what-it-means>; Human Rights Watch, "Our City Was Gone: Russia's Devastation of Mariupol, Ukraine," February 8, 2024, <https://www.hrw.org/feature/russia-ukraine-war-mariupol/report>.
- 296 Marc Santora, Megan Specia, and Ivan Nechpurenko, "Russia Unleashes a Missile Barrage, While Inching Ahead in Eastern Ukraine," *New York Times*, June 25, 2022, <https://www.nytimes.com/2022/06/25/world/europe/russia-missiles-ukraine-putin-lukashenko.html>.

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229. In July 2022, after weeks of fighting, the last city under Ukrainian control in Luhansk, Lysychansk, fell to Russia.<sup>297</sup>
  230. In October 2022, Russian missiles struck nearly every region of Ukraine, killing at least 11 people and injuring dozens more in one of the broadest attacks since the early days of Russia's full-scale invasion, the start of a campaign against the country's energy infrastructure.<sup>298</sup> On October 5, 2022, President Putin signed legislation annexing four Ukrainian regions: Donetsk, Luhansk, Zaporizhzhia, and Kherson.<sup>299</sup>
  231. Following a winter stalemate, President Putin announced plans in February 2023 to take all of Donbas by March 2023 in an offensive surge.<sup>300</sup> The attack devolved into a months-long siege of Bakhmut.<sup>301</sup> Ukraine accused Russia of attacking the besieged city of Bakhmut with phosphorous munitions.<sup>302</sup>
  232. On June 6, 2023, a breach in the Nova Kakhovka dam caused severe flooding, affecting over 80,000 people. Ukraine accused Russia of blowing up the dam to prevent a southeastern offensive.<sup>303</sup>
  233. In December 2023 and January 2024, Russia launched a massive wave of missile and drone attacks across Ukraine, resulting in over 100 civilian deaths and nearly 500 injuries. These attacks marked the deadliest single day for civilians in months and signaled a sharp escalation in targeting populated areas.<sup>304</sup>
  234. On January 4, 2024, Russia launched missiles at Pokrovsk and Rivne in Donetsk Oblast. The missile strikes buried two families, six adults and five children, under the rubble of their homes.<sup>305</sup>

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- 297 Thomas Gibbons-Neff, Kamila Hrabchuk, and Vivian Yee, "As City Falls, Ukraine's Last Hope in Luhansk Falls With It," *New York Times*, July 3, 2023, <https://www.nytimes.com/2022/07/03/world/europe/ukraine-war-lysyhansk.html>.
  - 298 "Putin Unleashes Barrage of Missiles on Ukrainian Civilian Areas", *New York Times*, October 10, 2022, <https://www.nytimes.com/live/2022/10/10/world/russia-ukraine-war-news>.
  - 299 Anton Troianovski, "Putin Signs Annexation Laws, Plowing Ahead with a Parallel Reality as Russia Loses Ground in Ukraine," *New York Times*, October 5, 2022, <https://www.nytimes.com/2022/10/05/world/europe/putin-annexation-ukraine-russia.html>.
  - 300 Marc Santora, Josh Holder, Marco Hernandez, Andrew E. Kramer, "The War's Violent Next Stage," *New York Times*, February 10, 2023, <https://www.nytimes.com/interactive/2023/02/10/world/europe/russia-ukraine-offensives-maps.html>.
  - 301 AJLabs, "Mapping the Battle for Ukraine's Bakhmut," *Al Jazeera*, January 20, 2023, <https://www.aljazeera.com/news/2023/1/20/mapping-the-battle-for-bakhmut>.
  - 302 Matt Murphy, "Ukraine War: Russia Accused of Using Phosphorus Bombs in Bakhmut," *BBC*, May 6, 2023, <https://www.bbc.com/news/world-europe-65506993>.
  - 303 Reuters, "Ukraine Says Russia Blew Up Dam to Prevent Offensive in South," June 11, 2023, <https://www.reuters.com/world/europe/ukraine-says-russia-blew-up-kakhovka-dam-prevent-offensive-south-2023-06-11/>.
  - 304 Associated Press, "Russia's Intense Attacks on Ukraine Has Sharply Increased Civilian Casualties in December, UN Says," January 17, 2024, <https://apnews.com/article/russia-ukraine-war-civilian-casualties-increase-missiles-b4702b77b170ad94fab56cac8cbcdc2b>.
  - 305 Associated Press, "Russia's Intense Attacks on Ukraine."

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235. On January 6, 2024, a Russian missile strike injured 31 civilians in Novomoskovsk, Dnipropetrovsk Oblast, including eight passengers on a minibus destroyed during the morning commute.<sup>306</sup>
236. At the beginning of May 2024, Russian forces crossed the international border to the north of Ukraine's second-biggest city, Kharkiv, seizing several villages on the way and forcing thousands of civilians to flee.<sup>307</sup>
237. On July 8, 2024, a Russian missile destroyed Ukraine's largest children's hospital in Kyiv, as part of a barrage of bombings across the country, and Russia struck a military academy and nearby hospital on September 3, 2024.<sup>308</sup>
238. On February 1, 2025, a large high-explosive missile detonated at 7:44 a.m. in midair and destroyed the corner of an apartment building in the city of Poltava, 240 kilometers from the front line, killing 15 civilians and injuring 20.<sup>309</sup>
239. On February 4, 2025, Russian forces launched a missile on the eastern town of Iziium, 42 kilometers from the front line. The attack hit the city council building in the central district, killing six civilians and injuring 57, including three children.<sup>310</sup>
240. On the night of March 5, an explosive weapon struck the roof of the Tsentralnyi Hotel in the southeastern city of Kryvyi Rih, 70 kilometers from the front line, killing six civilians and injuring 31.<sup>311</sup>
241. On April 4, 2025, a Russian cluster ballistic missile hit a residential area with a playground and apartment buildings in Kryvyi Rih, a major industrial hub in Dnipropetrovsk Oblast, killing 20 people, nine of them children.<sup>312</sup>
242. On April 13, 2025, Palm Sunday, Russia launched a "double-tap" strike with Iskander-M missiles on Sumy's city center, killing 35 civilians, including two children, and injuring over 100 others. One of the strikes targeted a city bus, resulting in numerous fatalities.<sup>313</sup>

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306 Natalia Yermak, "From Hospitals to Malls, the Deadliest Russian Strikes on Civilians in Ukraine So Far," *Kyiv Independent*, April 15, 2025, <https://kyivindependent.com/here-are-russias-deadliest-attacks-on-civilians-since-the-start-of-the-full-scale-invasion>.

307 "Ukraine in Maps: Tracking the War with Russia," BBC, August 22, 2025, <https://www.bbc.com/news/world-europe-60506682>.

308 Eve Sampson, "A Timeline of Some of the Deadliest Attacks in Ukraine's War With Russia," *New York Times*, September 3, 2024, <https://www.nytimes.com/2024/09/03/world/europe/ukraine-russia-strikes-deaths.html>.

309 Human Rights Watch, "Ukraine: Escalating Russian Attacks on Civilians," May 22, 2025, <https://www.hrw.org/news/2025/05/22/ukraine-escalating-russian-attacks-civilians>.

310 Human Rights Watch, "Ukraine: Escalating Russian Attacks on Civilians."

311 Human Rights Watch, "Ukraine: Escalating Russian Attacks on Civilians."

312 Yermak, "From Hospitals to Malls."

313 Yermak, "From Hospitals to Malls."

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243. On the night of April 23–24, 2025, Russia pounded Kyiv with an hours-long barrage of missiles and drones, killing at least 12 people in its deadliest assault on the Ukrainian capital since July 2024.<sup>314</sup>
244. Notably, Human Rights Watch has found that Russian attacks in Ukraine since January 2025 have killed or injured more civilians than in the same period in 2024. It examined four Russian attacks in Ukraine between February 1 and April 4, 2025, which killed at least 47 civilians and injured more than 180 others, a 57 percent increase in civilian casualties. Human Rights Watch found these attacks to be unlawful, in that, at a minimum, they violated the international law prohibition on indiscriminate and disproportionate attacks. Russian forces failed to distinguish between civilian and military objectives or to avoid the disproportionate civilian casualties that could be expected from the attacks compared to any anticipated military advantage. Such attacks, when committed deliberately or recklessly, constitute war crimes under international law.<sup>315</sup>
245. Between May and August 2025, Russia undertook several widespread missile and drone attacks on Kyiv, resulting in more casualties.<sup>316</sup>
246. While by no means comprehensive (and focused mainly on some of the deadliest attacks), the above demonstrates Russia’s consistent attacks on the territory of Ukraine since the full-scale invasion, which have resulted in military occupation of parts of the territory of Ukraine. During this period, Russian attacks repeatedly targeted civilian infrastructure.
247. This policy has led the ICC to issue two arrest warrants for senior military officials involved in missile strikes carried out by the Russian armed forces against the Ukrainian electric infrastructure from at least October 10, 2022, until at least March 9, 2023, finding that those strikes “constitute a course of conduct involving the multiple commission of acts against a civilian population, carried out pursuant to a State policy.”<sup>317</sup>

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314 Vasilisa Stepanenko and Samya Kullab, “Russian Strike on Kyiv Kills at Least 12 in Biggest Attack on Ukrainian Capital Since Last Summer,” Associated Press, April 24, 2024, <https://apnews.com/article/russia-ukraine-war-kyiv-strike-913ca4a6b4e624ed50e6c1018576a8ad>

315 Human Rights Watch, “Ukraine: Escalating Russian Attacks on Civilians.”

316 See, e.g., United Nations Ukraine, “Kyiv Suffers Deadliest Attack in Almost a Year, UN Human Rights Monitors Say”, June 17, 2025, <https://ukraine.un.org/en/296381-kyiv-suffers-deadliest-attack-almost-year-un-human-rights-monitors-say>; OHCHR, “Number of Civilians Killed or Injured in Ukraine Reaches Three-Year Monthly High.”

317 ICC, “Situation in Ukraine: ICC Judges Issue Arrest Warrants against Sergei Kuzhugetovich Shoigu and Valery Vasilyevich Gerasimov,” June 24, 2024, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-sergei-kuzhugetovich-shoigu-and>.

## Russia has blockaded the ports and coasts of Ukraine, an act of aggression under Article 8 *bis* (2)(c) of the Rome Statute

248. Russian naval forces established a blockade of Ukraine’s Black Sea coast beginning in the early days of the full-scale invasion. According to the UK Ministry of Defence’s intelligence update of March 13, 2022, “Russian naval forces have established a distant blockade of Ukraine’s Black Sea coast, effectively isolating Ukraine from international maritime trade.”<sup>318</sup>
249. Although a temporary reprieve occurred following the July 2022 signing of the Black Sea Grain Initiative brokered by the UN and Turkey, Russia repeatedly destabilized the arrangement. It suspended its participation on October 29, 2022, and although it briefly resumed, Russia formally withdrew from the agreement on July 17, 2023.<sup>319</sup> Immediately thereafter, the Russian Ministry of Defence issued a public warning that all vessels heading to Ukrainian ports would be treated as potential military targets.<sup>320</sup> This declaration, combined with the maritime insecurity created by Russian naval and aerial activity, had the effect of reinstating the blockade.
250. Following its withdrawal from the grain deal, Russia initiated coordinated missile and drone attacks on Ukraine’s port and grain export infrastructure. Between July 2023 and early 2025, strikes were documented in Odesa, Chornomorsk, and Mykolaiv, and on ports along the Danube River including Reni and Izmail.<sup>321</sup> The UN Satellite Centre confirmed the destruction of warehouses, grain silos, and loading infrastructure in a series of satellite analyses released between August and October 2023.<sup>322</sup>
251. The International Maritime Organization (IMO), in its 129th regular session of its council held from July 17–21, 2023, expressed concern over Russia’s actions, including its threats to treat commercial shipping vessels as military targets. The IMO emphasized that these actions endangered freedom of navigation and contravened international maritime law, including the principles of the UN Convention on the Law of the Sea.<sup>323</sup>

318 UK Ministry of Defence, “Latest Defence Intelligence Update on the Situation in Ukraine—13 March 2022,” March 13, 2022, <https://threadreaderapp.com/thread/1502900346703814657.html>.

319 United Nations, “Black Sea Grain Initiative: UN Welcomes Renewal of Ukraine Grain Export Deal,” Black Sea Grain Initiative Joint Coordination Centre, July 22, 2022, <https://www.un.org/en/black-sea-grain-initiative>; see also Reuters, “Russia Says Ships Heading to Ukraine Will Be Considered Military Targets,” July 19, 2023, <https://www.reuters.com/world/europe/russia-warns-against-any-ships-traveling-ukraine-thursday-2023-07-19/>.

320 TASS, “Russia to View Ships Going to Ukraine across Black Sea as Carrying Military Cargoes,” July 19, 2023, <https://tass.com/economy/1649199>.

321 BBC News, “Ukraine War: Russia Strikes Ukraine Grain after Ending Sea Deal,” July 19, 2023, <https://www.bbc.com/news/world-europe-66242446>; Peter Beaumont, “Trying to Make the World Starve: Russian Drones Destroy Grain Warehouses at Ukraine Ports,” *The Guardian*, July 24, 2023, <https://www.theguardian.com/world/2023/jul/24/russian-drones-destroy-grain-warehouses-ukraine-danube-ports>.

322 United Nations Satellite Centre, Satellite Analysis Reports on Black Sea and Danube Port Infrastructure, August–October 2023.

323 International Maritime Organization, “129th Session (17-21 July 2023),” [https://www.imo.org/en/mediacentre/meetingsummaries/pages/council%2C-129th-session-.aspx?utm\\_source=chatgpt.com](https://www.imo.org/en/mediacentre/meetingsummaries/pages/council%2C-129th-session-.aspx?utm_source=chatgpt.com).

252. Control over the Black Sea has continued to be central to the conflict.<sup>324</sup>

### **Russia attacked the land, sea, or air forces, or marine and air fleets of Ukraine, an act of aggression under Article 8 *bis* (2)(d) of the Rome Statute**

253. Russian armed forces attacked the Ukrainian armed forces and military bases across Ukraine, according to the meaning of Article 8 *bis* (2)(d).
254. On February 24, 2022, the first day of the invasion, Russian armed forces targeted a Ukrainian garrison on the island of Zmiinyi (also known as Snake Island) situated in the Black Sea.<sup>325</sup>
255. Russian armed forces have targeted Ukrainian military bases. For instance, on March 14, 2022, Russian armed forces hit Ukraine's military base in Yavoriv, in western Ukraine, fewer than 15 miles from the border with Poland, killing 35 people and wounding 134.<sup>326</sup> The Starokostiantyniv air base has come under frequent attack.<sup>327</sup> At the time of writing, a missile had hit near a Ukrainian air base as part of a broader campaign of air assaults aimed at degrading Ukraine's military infrastructure and wearing down its air defenses.<sup>328</sup>

### **Russia reportedly sent armed bands, groups, irregulars, or mercenaries to carry out acts of armed force against Ukraine, an act of aggression under Article 8 *bis* (2)(g) of the Rome Statute**

256. There are indications that Russia sent armed bands, groups, irregulars, or mercenaries to carry out acts of armed force against Ukraine.

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324 See, e.g., Galip Dalay and Natalie Sabanadze, "Why Putin Won't Stop His Quest for the Black Sea," *Time*, August 19, 2025, <https://time.com/7310503/putin-quest-black-sea/>.

325 Justin McCurry and Elias Visontay, "Ukraine Island Defenders Who Told Russian Navy 'Go Fuck Yourself' May Still Be Alive," *The Guardian*, February 27, 2022, <https://www.theguardian.com/world/2022/feb/27/ukraine-island-defenders-who-told-russian-officer-go-fuck-yourself-may-still-be-alive>; Ben Farmer and Tanya Kzyreva, "Ukrainians Anxiously Await News of the Defenders of Snake Island, Taken by Russia at the Start of the Conflict," *The Telegraph*, March 14, 2022, <https://www.telegraph.co.uk/global-health/terror-and-security/ukrainians-anxiously-await-news-defenders-snake-island-taken/>.

326 Dan Sabbagh, "Russia Sends Message with Yavoriv Strike but Attack on Poland Unlikely," *The Guardian*, March 13, 2022, <https://www.theguardian.com/world/2022/mar/13/russia-sends-message-with-yavoriv-strike-but-attack-on-poland-unlikely>; Pavel Polityuk and Natalia Zinets, "Russian Strike on Base Brings Ukraine War Close to NATO's Border," Reuters, March 13, 2022, <https://www.reuters.com/world/europe/ukraines-zelenskiy-warns-desolation-if-russia-tries-take-kyiv-2022-03-13/>.

327 Dan Pelechuk, "Ukrainian Air Base Under Frequent Fire as Russia Aims at F-16 Arrivals," Reuters, July 2, 2024, <https://www.reuters.com/world/europe/ukrainian-air-base-under-fire-russia-aims-f-16-arrivals-2024-07-02/>.

328 Constant Méheut, "Missile Hits Near Ukrainian Air Base as Russia Expands Air Attacks," *New York Times*, October 7, 2024, <https://www.nytimes.com/2024/10/07/world/europe/ukraine-russia-missile-attack.html>.

257. In particular, as detailed above in connection with Donbas, the Wagner Group, a private military contractor firm that has been linked to Yevgeny Prigozhin, has reportedly been active in Ukraine.<sup>329</sup> A senior U.S. defense official told reporters on February 28, 2022, that there were “some indications” of the presence of the Wagner Group in Ukraine, including in attempts to seize the Ukrainian capital.<sup>330</sup> The Ukrainian president allegedly survived multiple assassination attempts by the Wagner Group in late February.<sup>331</sup>
258. Since then, the role of the Wagner Group in Ukraine has been well-documented (including by Open Society Justice Initiative), including in conducting large-scale complex military operations beginning in 2015 in Donbas and playing a significant combat role in assaults on Popasna and Bakhmut, and in the capture of Mariupol and Kherson.<sup>332</sup> It has close ties to the Russian military apparatus,<sup>333</sup> which has led some to conclude that the Wagner Group is under the “overall control” of Russia.<sup>334</sup> Since the reported death of the Wagner Group’s leader, Yevgeny Prigozhin, and the Wagner Group’s mutiny, other private military and security companies, including Redut, have been quick to take over operations in Ukraine.<sup>335</sup>
259. Additional investigation is necessary to determine the involvement of private military contractors in the Russian invasion of Ukraine, including to determine the extent to which such groups participated in acts of aggression against Ukraine. But (as noted in connection to Donbas above), Russia’s deployment of Wagner and other armed groups in Ukraine, combined with its substantial involvement in their operations, constitutes a clear violation of Article 8 *bis* (2)(g).

## RUSSIA’S ACTS OF AGGRESSION CONSTITUTE MANIFEST VIOLATIONS OF THE UN CHARTER

260. Russia’s acts of aggression constitute a “manifest violation” of the UN Charter because of their “character, gravity, and scale,” according to the meaning of Article 8 *bis* (1). As noted, only two of the three prongs are required; here, all three are met.

329 See generally Open Society Justice Initiative, “Accountability for Crimes of Personnel of the Wagner Group in Ukraine,” ; Narwpi Daragjo, “Guns for Hire: How Shadowy Wagner Group Mercenaries Support Russian Soldiers in Ukraine Conflict,” *The Independent*, March 4, 2022, <https://www.independent.co.uk/news/world/europe/ukraine-russia-war-wagner-group-mercenaries-soldiers-b2028799.html>; *The Economist*, “What Is the Wagner Group, Russia’s Mercenary Organisation?,” March 7, 2022, <https://www.economist.com/the-economist-explains/2022/03/07/what-is-the-wagner-group-russias-mercenary-organisation>.

330 Karam, “Russia Seeking to Encircle Ukraine’s Capital.”

331 Rana, “Volodymyr Zelensky Survives.”

332 Open Society Justice Initiative, “Accountability for Crimes of Personnel of the Wagner Group,” 33–35.

333 Open Society Justice Initiative, “Accountability for Crimes of Personnel of the Wagner Group,” 42–47.

334 Open Society Justice Initiative, “Accountability for Crimes of Personnel of the Wagner Group,” 55–57.

335 Luxmoore, “Russian Private Military Companies”; Mark Krutov and Sergei Dobyinin, “Who’s Who Among Russia’s Mercenary Companies,” RadioFreeEurope, May 23, 2023, <https://www.rferl.org/a/russia-other-mercenary-companies-ukraine/32424520.html>.

## Russia's acts of aggression are manifest violations by their character

261. According to the standard set out in paragraphs 17–20 above, Russia's full-scale invasion of Ukraine constitutes an evident violation of the UN Charter.
262. In the period immediately preceding and during the initial phases of the February 2022 invasion, the Russian Federation formally justified its military action by alleging that Ukraine was committing genocide against Russian-speaking populations in the Donetsk and Luhansk regions of the Donbas. The ICJ documented that on February 21, 2022, in his address coinciding with Russia's recognition of the "republics" of Donetsk and Luhansk, President Putin declared that "4 million people" living in the eastern region of Ukraine were victims of "genocide."<sup>336</sup> Subsequently, in his address of February 24, 2022, announcing the "special military operation," President Putin stated that the operation's purpose was "to protect people who have been subjected to abuse and genocide by the Kiev regime for eight years."<sup>337</sup>
263. Ukraine challenged these allegations before the ICJ in the case *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, filed on February 26, 2022.
264. In its Preliminary Objections Judgment of February 2, 2024, the ICJ found no evidence supporting Russia's genocide allegations, determining it would proceed only to assess whether Ukraine had committed genocide in the eastern regions, while rejecting the court's jurisdiction over Russia's broader conduct. Following this ICJ decision, which definitively undermined the credibility of the genocide allegations in international legal discourse, Russia ceased prominently featuring such claims as a primary justification for its ongoing military operations.
265. Russia also sought to justify its use of armed force in Ukraine as an act of self-defense. On February 24, 2022, President Putin announced Russia's military action in Ukraine in a speech.<sup>338</sup> On the same day, the Russian permanent representative to the UN, Vassily Nebenzia, notified the UN secretary-general that the military action was "taken in accordance with Article 51 of the UN Charter in the exercise of the right of self-defence."<sup>339</sup> The transcript of President Putin's speech was appended to the Article 51 letter as sole legal justification for Russia's use of force. The transcript of President Putin's speech was also appended to Russia's written submissions dated March 7,

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336 RT Staff Reporters, "President Putin's February 21 Speech to the Nation—Full Text," Rio Times Online, February 24, 2022, <https://www.riotimesonline.com/brazil-news/crypto/president-putins-full-text-of-february-21-2022-speech-to-the-nation/>.

337 Vladimir Putin, "Article by Vladimir Putin 'On the Historical Unity of Russians and Ukrainians,'" Kremlin, July 12, 2021, <http://en.kremlin.ru/events/president/news/66181>.

338 See supra n. 273.

339 "Letter Dated 24 February 2022 from the Permanent Representative of the Russian Federation."

2022, in the case before the ICJ on *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*.<sup>340</sup> The written submissions quoted extensively from President Putin's speech and asserted that Russia's only justification for the use of force against Ukraine was self-defense under Article 51 of the UN Charter:

The special military operation conducted by Russia in the territory of Ukraine is based on the United Nations Charter, its Article 51 and customary international law. The legal basis for the military operation was communicated on 24 February 2022 to the Secretary-General of the United Nations and the United Nations Security Council by the Permanent Representative of the Russian Federation to the United Nations in the form of a notification under Article 51 of the United Nations Charter. The relevant letter addressed to the UN Secretary-General with the request to circulate it as a document of the UN Security Council forwarded "the address of the President of the Russian Federation H.E. Mr. Vladimir Putin to the citizens of Russia informing them of the measures taken in accordance with Article 51 of the UN Charter in exercise of the right of self-defense."<sup>341</sup>

266. President Putin appears to make two legal arguments for Russia's purported use of force in self-defense in his speech from February 24, 2022: An individual self-defense argument according to which Russia is using force in individual self-defense to protect itself and/or Russian nationals and a collective self-defense argument according to which Russia is using force in collective self-defense to protect the DPR and the LPR. The factual circumstances do not support either self-defense argument.
267. According to the individual self-defense argument, Russia would be using force in individual self-defense to protect itself. President Putin's speech refers to "the expansion of the North Atlantic Treaty Organization (NATO) bloc to the east and the advance of its military infrastructure ever closer to Russia's borders" as "fundamental threats against our country."<sup>342</sup> President Putin specifically uses the language of individual self-defense. He stated that "Russia cannot feel safe, develop and exist with

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340 *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, "Document (with annexes) from the Russian Federation setting out its position regarding the alleged 'lack of jurisdiction' of the Court in the case," March 7, 2022, <https://www.icj-cij.org/public/files/case-related/182/182-20220307-OTH-01-00-EN.pdf>.

341 *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, "Document (with annexes) from the Russian Federation setting out its position regarding the alleged 'lack of jurisdiction' of the Court in the case," para. 15.

342 Appendix, para. 3. President Putin presents the expansion of NATO in Ukraine as a threat to Russia itself in several parts of his speech; see Appendix, paras. 24, 25, 26, 27, and 28.

a constant threat emanating from the territory of present-day Ukraine”<sup>343</sup> and that “We simply have been left with no other way to defend Russia and our people than the one we are forced to use today.”<sup>344</sup>

268. However, based on the test set out in the Introduction above and by the ICJ in *Nicaragua v. United States*, self-defense is permissible only in response to an “armed attack” and that the response is both necessary and proportionate. Russia could not legally resort to individual self-defense as Ukraine had not committed an armed attack against Russia and did not pose an imminent threat to Russia, and Russia’s military action was neither necessary nor proportionate.
269. The requirement of an “armed attack” is not met. Russia has not demonstrated that it has been the victim of an armed attack by Ukraine. In fact, there is no evidence that Ukraine used any force against Russia prior to Russia using force against Ukraine on February 24, 2022.
270. Nor has Russia has shown that the alleged threat posed by Ukraine was imminent.
271. Finally, the criteria of necessity and proportionality are not met in Russia’s purported use of force in self-defense against Ukraine as part of its full-scale invasion. Ukraine posed no imminent threat to Russia. Consequently, Russia’s use of force against the territory of Ukraine was not necessary. Further, the scale of Russia’s use of force illustrates that Russia’s response is grossly disproportionate.
272. Nor does the collective self-defense argument with respect to the DPR and the LPR have any merit, for the reasons described in paragraphs 194-200. Thus, Russia’s use of armed force in individual or collective self-defense was neither legally nor factually supported.
273. Russia lacks any legal justification for its use of force against the sovereignty, territorial integrity, or political independence of Ukraine. This constitutes a manifest violation of Article 2(4) of the UN Charter. The UN General Assembly overwhelmingly adopted on March 2, 2022, a resolution that notably “[d]eplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2(4) of the Charter.”<sup>345</sup> That the resolution was adopted by a vote of 141 in favor to five against illustrates the international consensus that Russia’s acts of aggression were manifestly unlawful.

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343 Appendix, para. 34. President Putin specifically uses the language of individual self-defense in several parts of his speech; see Appendix, paras. 35, 36, 37, 45, 46, and 51.

344 Appendix, para. 37.

345 UN General Assembly Resolution ES-11/1 of March 2, 2022, para. 2.

## Russia's acts of aggression are manifest violations by their gravity and scale

274. Russia's acts of aggression in Ukraine display the required gravity and scale to constitute a manifest violation of the UN Charter.
275. First, there has been a high number of human casualties on all sides. The OHCHR recorded 1,761 civilian casualties by the close of March 13, 2022, i.e., less than a month following the invasion (see paragraph 217 above). As of February 2025, three years after the full-scale invasion, the OHCHR recorded over 40,000 civilian casualties (including over 10,000 killed), with an increase of 30 percent in casualties in 2024 compared to 2023.<sup>346</sup> By July 2025, HRMMU had documented the deaths of at least 13,580 civilians, including 716 children, and 34,115 civilians injured, including 2,173 children.<sup>347</sup>
276. The U.S. military estimates that between 2,000 and 4,000 Ukrainian armed forces, national guard, and volunteer forces and between 5,000 and 6,000 Russian soldiers were killed in the first two weeks spanning the start of the invasion on February 24, 2022, and March 9, 2022.<sup>348</sup> The Ukrainian armed forces claimed that over 12,000 Russian soldiers had been killed by March 9, 2022.<sup>349</sup>
277. The BBC reported that nearly 100,000 Russian fighters had been killed by February 2025.<sup>350</sup> In total, the *Wall Street Journal* estimates that more than 1 million Ukrainians or Russians had been killed or wounded since the Russian invasion as of September 2024.<sup>351</sup> A recent study found that (as of May 2025) there had been nearly 1.4 million troop casualties since the beginning of the war (close to 400,000 Ukrainian troops and nearly 1 million Russian troops).<sup>352</sup>

346 OHCHR, "Fact Sheet: Three Years Since the Full Scale Invasion in Ukraine," February 6, 2025, [https://ukraine.ohchr.org/sites/default/files/2025-02/Human%20rights%203%20years%20into%20Russia%27s%20full-scale%20invasion%20of%20Ukraine\\_factsheet%20%28ENG%29.pdf](https://ukraine.ohchr.org/sites/default/files/2025-02/Human%20rights%203%20years%20into%20Russia%27s%20full-scale%20invasion%20of%20Ukraine_factsheet%20%28ENG%29.pdf).

347 OHCHR, "Civilian Casualties in Ukraine Reach Three-Year High in June, UN Human Rights Monitors Say," July 10, 2025, <https://ukraine.un.org/en/297777-civilian-casualties-ukraine-reach-three-year-high-june-un-human-rights-monitors-say>.

348 CBS News, "Up to 6,000 Russians May Have Been Killed in Ukraine So Far, U.S. Official Estimates," March 10, 2022, <https://www.cbsnews.com/news/ukraine-russia-death-toll-invasion/>.

349 Kyiv Independent News Desk, "Ukraine's Military: Over 12,000 Russian Troops Have Been Killed Since Feb. 24.," *The Kyiv Independent*, March 9, 2022, <https://kyivindependent.com/uncategorized/ukraines-military-over-12000-russian-troops-have-been-killed-since-feb-24/>.

350 Olga Ivshina, "Invisible Losses: Tens of Thousands Fighting for Russia Are Dying Unnoticed on the Frontline in Ukraine," BBC, February 22, 2025, <https://www.bbc.com/news/articles/cgkm71ly61do>.

351 Bojan Pancevski, "One Million Are Now Dead or Injured in the Russia-Ukraine War," *Wall Street Journal*, September 17, 2024, <https://www.wsj.com/world/one-million-are-now-dead-or-injured-in-the-russia-ukraine-war-b09d04e5#>.

352 Helene Cooper, "Troop Casualties in Ukraine War Near 1.4 Million, Study Finds," *New York Times*, June 3, 2025, <https://www.nytimes.com/2025/06/03/us/politics/russia-ukraine-troop-casualties.html>; Seth G. Jones and Riley McCabe, "Russia's Battlefield Woes in Ukraine," Center for Strategic & International Studies, June 3, 2025, <https://www.csis.org/analysis/russias-battlefield-woes-ukraine>.

278. Second, common life in Ukraine has been severely disturbed. The UNHCR estimated that over 3 million refugees had fled Ukraine between February 24, 2022, and March 15, 2022.<sup>353</sup> This number had more than doubled by September 2024, totaling nearly 7 million refugees recorded globally.<sup>354</sup> The *Wall Street Journal* indicates that the total population on Kyiv-controlled territory has dropped to between 25 million and 27 million, down from 40 million at the start of 2022.<sup>355</sup>
279. Third, property destruction has been particularly severe in Ukraine. Several Ukrainian cities have come under heavy Russian bombardment (see paragraphs 225 and 230 above). Residential houses, hospitals, and schools have been hit.<sup>356</sup> Schastia and Volnovakha have been reportedly devastated with thousands trapped in basements and over 80 percent of the infrastructure of the towns being damaged.<sup>357</sup> This damage has only worsened over time. A survey by the Norwegian Refugee Council indicated that, two years after the invasion: almost half (47 percent) of people surveyed in the east and south of Ukraine reported their houses had been damaged or destroyed; 57 percent of those surveyed across Ukraine who were displaced reported they had been displaced for over 18 months; 83 percent of respondents across the country reported that they feared for their lives and others around them, or did not feel safe; and a sobering 37 percent of respondents to the survey reported that they had lost an immediate or extended family member in the last 24 months.<sup>358</sup> The Kyiv School of Economics estimates that the total amount of damages<sup>359</sup> to residential and nonresidential real estate and other infrastructure has amounted to more than US\$157 billion (at replacement cost).<sup>360</sup> Russia's aerial attacks have destroyed 80 percent of Ukraine's energy infrastructure.<sup>361</sup>

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- 353 UN Human Rights Council, Ukraine Refugee Situation (accessed on 15 March 2022). The data is updated daily at <https://data2.unhcr.org/en/situations/ukraine>.
- 354 UN Human Rights Council, Ukraine Refugee Situation (accessed on 15 March 2022).
- 355 Pancevski, "One Million Are Now Dead or Injured."
- 356 OHCHR, "Russian Attacks on Civilian Targets in Ukraine Could Be a War Crime: UN Rights Office," March 11, 2022, <https://news.un.org/en/story/2022/03/1113782>; OHCHR, United Nations Human Rights Monitoring Mission in Ukraine, "Three years since the full-scale invasion" fact sheet, February 21, 2025, [https://ukraine.ohchr.org/sites/default/files/2025-02/Human%20rights%203%20years%20into%20Russia%27s%20full-scale%20invasion%20of%20Ukraine\\_factsheet%20%28ENG%29.pdf](https://ukraine.ohchr.org/sites/default/files/2025-02/Human%20rights%203%20years%20into%20Russia%27s%20full-scale%20invasion%20of%20Ukraine_factsheet%20%28ENG%29.pdf).
- 357 Nabih Bulos, "Under Relentless Russian Bombardment, Severodonetsk and Other Eastern Ukrainian Cities Are Slowly Dying," *The Los Angeles Times*, June 12, 2022, <https://www.latimes.com/world-nation/story/2022-06-12/under-relentless-russian-bombardment-severodonetsk-and-other-eastern-ukrainian-cities-are-slowly-dying>.
- 358 Emma Graham-Harrison and Isobel Koshiw, "'90% of Houses Are Damaged': Russia's Syria-Honed Tactics Lay Waste Ukraine Towns," *The Guardian*, March 4, 2022, <https://www.theguardian.com/world/2022/mar/04/ninety-per-cent-of-houses-are-damaged-thousands-trapped-in-ukraines-small-towns>.
- 359 Norwegian Refugee Council (NRC), "Ukraine Two Years On: Destruction and Displacement, the Devastating Impacts of the Escalation of War Revealed in New NRC Report," February 20, 2024, <https://www.nrc.no/news/2024/february/ukraine-two-years-on-destruction-and-displacement-the-devastating-impacts-of-the-escalation-of-war-revealed-in-new-nrc-report/>.
- 360 Dmytro Andrienko, Dmytro Goriunov, Vladyslava Grudova, Julia Markuts, Taras Marshalok, Roman Neyter, Igor Piddubnyi, Inna Studennikova, and Dmytro Topolsvok, "Report on Damages to Infrastructure from the Destruction Caused by Russia's Military Aggression Against Ukraine as of November 2024," Kyiv School of Economics, February 14, 2025, <https://kse.ua/about-the-school/news/damages-to-ukraine-s-infrastructure-due-to-the-war-have-risen-to-170-billion-kse-institute-estimate-as-of-november-2024/>.
- 361 International Partnership for Human Rights & Harvard International Human Rights Clinic, "Airstrikes and Atrocities: A Legal Assessment of Russia's Aerial Campaign in Ukraine," April 2025, <https://humanrightsclinic.law.harvard.edu/wp-content/uploads/2025/05/Airstrikes-and-Atrocities-April-2025-1.pdf>.

280. The “scale” component relates to the means used, including the intensity of the people and firepower used.<sup>362</sup> The means used by Russia in Ukraine illustrate the scale of the use of force. As noted in paragraphs 222-228 above, Russian forces have used explosive weapons including missiles, heavy artillery shells and rockets, and airstrikes.
281. Medical records provide unprecedented documentation demonstrating the scale and coordination of Russian forces involved in the February 2022 invasion. The 898 wounded servicemen treated in just two Belarusian medical facilities represent multiple elite Russian units operating simultaneously in the assault on Kyiv, including special operations forces from military units 28337 (Kubinka) and 92154 (Solnechnogorsk) near Moscow; GRU special forces from Khabarovsk, Tambov, Novosibirsk, and Tolyatti; the 234th Air Assault Regiment from Pskov; the 31st Guards Air Assault Brigade from Ulyanovsk; SOBR and OMON special units from Kemerovo Oblast; and the Fifth Tank Brigade and 37th Motor Rifle Brigade from Buryatia. The simultaneous deployment of these geographically dispersed elite units demonstrates the coordinated, large-scale nature of Russia’s acts of aggression.<sup>363</sup>
282. Thus, Russia’s acts of aggression in Ukraine constitute a manifest violation of the UN Charter because of their evident illegality and because of their scale and gravity.

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362 Kreß, “The State Conduct Element,” 520.

363 Dmytro Dzhulai and Maksym Savchuk, “Journalists Identified Russian Military Personnel Who Were Treated in Belarus after Attempting to Capture Kyiv in 2022,” Radio Svoboda, June 10, 2025, <https://www.radiosvoboda.org/a/skhemy-kyivshchyna-rosiyski-viys%CA%B9kovi-hospitali-bilorus/33438119.html>.

# RUSSIAN OFFICIALS ALLEGED TO BE RESPONSIBLE FOR COMMITTING THE CRIME OF AGGRESSION

## RUSSIAN OFFICIALS ARE LIABLE FOR COMMITTING THE CRIME OF AGGRESSION

283. The previous sections have set out how Russia’s military actions in and occupation of Ukrainian territory amount to acts of aggression. This section describes the actions of specific leaders in committing the crime of aggression. Allegations could also extend to other unnamed and unidentified officials.
284. Article 8 *bis* (1) of the Rome Statute requires that accused persons be in a position to “exercise control over or to direct the political or military action of a State.” The Elements of Crimes establish this as a leadership crime, confined to individuals in positions of effective control over a State’s political or military apparatus. The perpetrator must take part in activities of major significance in preparing, initiating, or waging a war of aggression, with the focus being on effective control, whether *de jure* or *de facto*, rather than formal title alone.<sup>364</sup> The evidence summarized below demonstrates that each accused person occupied positions within Russia’s political or military hierarchy that enabled such effective control over the State’s aggressive actions.
285. By actions taken between at least February 2014 and August 2015, Vladimir Putin, Valentina Matviyenko, and Sergei Lavrov planned, prepared, initiated, and/or executed the Russian Federation’s acts of aggression in Crimea beginning in February 2014 and Donbas beginning in May 2014.
286. By actions taken since April 7, 2022, Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov planned, prepared, initiated, and/or executed the Russian Federation’s acts of aggression in Ukraine beginning in February 2022.

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<sup>364</sup> Clark, “Individual conduct,” 585–87.

## Vladimir Putin

287. Vladimir Putin is serving his fourth term as the president of the Russian Federation (hereinafter, “Russia”). He was previously president from 1999 to 2008, and has served as president again since 2012.<sup>365</sup> As president, he is the constitutionally designated head of state,<sup>366</sup> with the authority as guarantor of the constitution to take measures to protect the sovereignty of Russia, its independence and state integrity; maintain civil peace and harmony in the country; and ensure the coordinated functioning and interaction of public authorities.<sup>367</sup> As president, Vladimir Putin is also constitutionally tasked with determining the main direction of Russia’s domestic and foreign policy,<sup>368</sup> and with representing Russia within the country and in its international relations.<sup>369</sup> Furthermore, as president of Russia, Vladimir Putin is the supreme commander in chief of the armed forces of Russia.<sup>370</sup> The Federal Law on Security stipulates that state security policy forms part of Russia’s domestic and foreign policy,<sup>371</sup> which Vladimir Putin is required to direct. Under this law, as president, Vladimir Putin is also granted the power to determine the main direction of state security<sup>372</sup> and to approve the national security strategy.<sup>373</sup>
288. As the president of Russia, Vladimir Putin is constitutionally mandated to form the Security Council to assist him as head of state in exercising his powers on issues of ensuring the national interests and security of the individual, society, and the state; maintaining civil peace and harmony in the country; protecting Russia’s sovereignty, independence, and state integrity; and preventing internal and external threats.<sup>374</sup> The Federal Law on Security assigns the Security Council several main functions, including (1) considering issues of security, organization of defense, and other issues related to protecting Russia’s constitutional order, sovereignty, independence, and territorial integrity; (2) developing and refining the national security strategy; (3) implementing strategic planning on security; and (4) preparing the president’s draft regulatory legal acts on issues of ensuring security.<sup>375</sup> The Security Council’s main tasks, as stipulated

365 Security Council of the Russian Federation, “Members of the Security Council of the Russian Federation Since Its Inception,” [http://www.scrf.gov.ru/about/all\\_time/](http://www.scrf.gov.ru/about/all_time/).

366 Constitution of the Russian Federation (1993, as amended 2020), Article 80(1).

367 Constitution of the Russian Federation, Article 80(2).

368 Constitution of the Russian Federation, Article 80(3).

369 Constitution of the Russian Federation, Article 80(4).

370 Constitution of the Russian Federation, Article 87.

371 Federal Law No. 390-FZ “On Security,” December 28, 2010, Article 4(1), [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=87862&p\\_country=RUS&p\\_count=802](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=87862&p_country=RUS&p_count=802).

372 Federal Law No. 390-FZ “On Security,” Article 8(1).

373 Federal Law No. 390-FZ “On Security,” Article 8(2).

374 Constitution of the Russian Federation (1993, as amended 2020), Article 83(g).

375 Federal Law No. 390-FZ “On Security,” Articles 4(3), 13(1), 14(2).

by the Federal Law on Security, include (1) providing conditions for the president's exercise of powers relating to security; (2) forming state security policy and controlling its implementation; (3) developing measures to neutralize security or military threats; (4) preparing proposals for the president on measures to prevent and eliminate emergency situations and overcome their consequences.<sup>376</sup> The Federal Law on Security further provides that the Security Council is chaired by the president, Vladimir Putin, and required to coordinate security activities with him.<sup>377</sup> Regulations of the Security Council are to be approved by the president, Vladimir Putin.<sup>378</sup>

289. By virtue of his role, Vladimir Putin is in a position effectively to exercise control over Russia's political and military action. He exercises power over Russian political and military action in concert with a close circle of trusted advisors, who also have influence over such decisions.<sup>379</sup> These advisors include the other accused persons, several of whom are members of the Security Council and/or trusted high-level Russian officials with security service backgrounds, known as *siloviki*.
290. Vladimir Putin announced the beginning of a "special military operation" in Ukraine in a speech on February 24, 2022.<sup>380</sup> Kremlin spokesperson Dmitry Peskov stated on February 24, 2022, during a call with media that Vladimir Putin as the supreme commander in chief of the armed forces would decide the duration of the military operation in Ukraine: "Deadline are determined by effectiveness and expediency. Will, of course, be determined by the Supreme Commander."<sup>381</sup> On March 4, 2022, Dmitry Peskov stated that Vladimir Putin as the supreme commander in chief "receives information" and "makes decisions about how, and by what means to carry out the assigned tasks during that operation."<sup>382</sup>

376 Federal Law No. 390-FZ "On Security," Article 14(1).

377 Federal Law No. 390-FZ "On Security," Article 6.

378 Federal Law No. 390-FZ "On Security," Article 13(2).

379 Soldatov and Irina Borogan, "Putin Conscripts History," Center for European Policy Analysis, February 18, 2022, <https://cepa.org/putin-conscripts-history/>; Anton Troianovski, "The Hard-Line Russian Advisers Who Have Putin's Ear," *New York Times*, January 30, 2022, <https://www.nytimes.com/2022/01/30/world/europe/putin-top-advisers-ukraine.html>; Alexander Gabuev, "Alexander Gabuev Writes from Moscow on Why Vladimir Putin and His Entourage Want War," *The Economist*, February 19, 2022, <https://www.economist.com/by-invitation/2022/02/19/alexander-gabuev-writes-from-moscow-on-why-vladimir-putin-and-his-entourage-want-war>.

380 Kremlin, "Address by the President of the Russian Federation," February 24, 2022, <http://en.kremlin.ru/events/president/news/67843>.

381 "В Кремле рассказали о целях специальной операции по защите Донбасса" [The Kremlin told about the goals of the special operation to protect Donbass], *Vmeste*, February 24, 2022, <https://vmeste-rf.tv/news/v-kremle-rasskazali-o-tselyakh-spetsialnoy-operatsii-po-zashchite-donbassa/>.

382 "Кремль прокомментировал просьбу Кадырова дать приказ на взятие Киева и Харькова" [The Kremlin commented on Kadyrov's request to give an order to take Kiev and Kharkov], *Lenta*, March 4, 2022, [https://lenta.ru/news/2022/03/04/donbss\\_putin/](https://lenta.ru/news/2022/03/04/donbss_putin/).

## Nikolai Patrushev

291. Nikolai Patrushev has served as secretary of the Russian Security Council since 2008.<sup>383</sup> Members of the Security Council are personally appointed by Vladimir Putin,<sup>384</sup> such that membership in the Security Council may be indicative of the level of trust Vladimir Putin has in a particular individual, such as Nikolai Patrushev. Members of the Security Council are required to participate in meetings, at which they have the right to an advisory vote.<sup>385</sup> Decisions of the Security Council are made at its sessions and meetings by permanent members of the Security Council, who have equal decision-making rights.<sup>386</sup> Decisions of the Security Council enter into force on approval by the president, and are thereafter binding on government agencies and officials.<sup>387</sup> Thus, each member of the Security Council, and especially each permanent member, has the ability to influence the conduct of its main tasks and functions. An expert on Russian politics explains that, while the exact extent of power actually afforded to the Security Council is unclear, the Security Council remains a “locus of power,” and the members of the Security Council are “key players within the Russian political system.”<sup>388</sup>
292. As secretary of the Security Council, Nikolai Patrushev has the additional responsibility of being responsible for implementing the tasks and functions of the Security Council.<sup>389</sup> Unlike other members, Patrushev reports directly to Vladimir Putin, as president,<sup>390</sup> and his powers are determined by the president.<sup>391</sup>
293. Nikolai Patrushev has had a long career in the security services, dating back to 1974.<sup>392</sup> Prior to his role as secretary of the Security Council, Nikolai Patrushev served as the director of the FSB from 1999 to 2008.<sup>393</sup> He was appointed to that position by the former president of Russia, Boris Yeltsin, to replace Vladimir Putin.<sup>394</sup> Nikolai Patrushev is hence one of the high-level Russian officials with security service backgrounds,

383 Security Council of the Russian Federation, “Patrushev Nikolai Platonovich,” <http://www.scrf.gov.ru/about/leadership/person8/>.

384 Federal Law No. 390-FZ “On Security,” Articles 15(2)–(3).

385 Federal Law No. 390-FZ “On Security,” Article 15(4).

386 Federal Law No. 390-FZ “On Security,” Article 18(1).

387 Federal Law No. 390-FZ “On Security,” Articles 18(2)–(3).

388 Mark Galeotti, “Russia’s Security Council: Where Policy, Personality, and Process Meet,” Marshall Center, No. 041, October 2019, <https://www.marshallcenter.org/en/publications/security-insights/russias-security-council-where-policy-personality-and-process-meet-0>.

389 Federal Law No. 390-FZ “On Security,” Article 16(1).

390 Federal Law No. 390-FZ “On Security,” Article 16(2).

391 Federal Law No. 390-FZ “On Security,” Article 16(3).

392 Security Council of the Russian Federation, “Patrushev Nikolai Platonovich.”

393 Database of Free Russia Forum, “Putin’s List—Patrushev Nikolai,” <https://www.spisok-putina.org/en/personas/patrushev-2/>.

394 Database of Free Russia Forum, “Putin’s List—Patrushev Nikolai.”

referred to as *siloviki*.<sup>395</sup> The *siloviki* are regarded as among Vladimir Putin's most trusted advisors,<sup>396</sup> potentially because many of them share Vladimir Putin's KGB background.<sup>397</sup> The *siloviki* are also thought to have gained increasing influence in recent years.<sup>398</sup> Vladimir Putin even names Nikolai Patrushev as one of his trusted allies in his autobiography.<sup>399</sup>

294. Russia experts and commentators also consider Nikolai Patrushev to be one of Vladimir Putin's most trusted advisors: In January 2022, the *New York Times*' Moscow bureau chief identified Nikolai Patrushev as one of the individuals who would figure most prominently in making the decision on Russia's invasion of Ukraine.<sup>400</sup> Another expert on Russian policy deemed Nikolai Patrushev a member of Vladimir Putin's "war cabinet,"<sup>401</sup> while yet another observed that Nikolai Patrushev enjoys the particular trust of Vladimir Putin, is a vocal and high-profile figure within Russian security and foreign policy, and that the actual power of the Security Council largely vests in Nikolai Patrushev himself.<sup>402</sup> It has also been observed that Nikolai Patrushev is Vladimir Putin's unofficial national security advisor.<sup>403</sup>
295. Nikolai Patrushev was placed on the EU sanctions lists in 2014,<sup>404</sup> and on the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctions list in 2018,<sup>405</sup> for contributing to undermining Ukraine's sovereignty. The UK Treasury also placed Nikolai Patrushev on its sanctions list in 2020 for his involvement, as part of the

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- 395 Troianovski, "The Hard-Line Russian Advisers,;" James Langton, "Meet Russia's Siloviki—Putin's Inner Circle," *The National News*, March 15, 2022, <https://www.thenationalnews.com/world/europe/2022/03/15/meet-russias-siloviki-putins-inner-circle/>.
- 396 Soldatov and Borogan, "Putin Conscripts History,;" Troianovski, "The Hard-Line Russian Advisers,;" Andrew Roch, "Putin's Security Men: The Elite Group Who 'Fuel His Anxieties,'" *The Guardian*, February 4, 2022, <https://www.theguardian.com/world/2022/feb/04/putin-security-elite-siloviki-russia>.
- 397 Troianovski, "The Hard-Line Russian Advisers.w"
- 398 Emily Sherwin, "Putin's Inner Circle: Who Has the Russian President's Ear on the War in Ukraine?," *Deutsche Welle*, March 11, 2022, <https://www.dw.com/en/putins-inner-circle-who-has-the-russian-presidents-ear-on-the-war-in-ukraine/a-61102576>.
- 399 Vladimir Putin, *First Person* (Hachette Publishing, 2000), 201.
- 400 Troianovski, "The Hard-Line Russian Advisers."
- 401 Gabuev, "Alexander Gabuev Writes from Moscow."
- 402 Galeotti, "Russia's Security Council." See also Mark Galeotti, "Putin's Hydra: Inside Russia's Intelligence Services," European Council on Foreign Relations, May 2016, [https://ecfr.eu/wp-content/uploads/ECFR\\_169\\_-\\_PUTINS\\_HYDRA\\_INSIDE\\_THE\\_RUSSIAN\\_INTELLIGENCE\\_SERVICES\\_1513.pdf](https://ecfr.eu/wp-content/uploads/ECFR_169_-_PUTINS_HYDRA_INSIDE_THE_RUSSIAN_INTELLIGENCE_SERVICES_1513.pdf).
- 403 Roch, "Putin's Security Men."
- 404 Council of the European Union, Council Implementing Regulation (EU) No. 810/2014 implementing Regulation (EU) No. 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, July 25, 2014, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0810>.
- 405 U.S. Department of the Treasury, "Treasury Designates Russian Oligarchs, Officials, and Entities in Response to Worldwide Malign Activity," April 6, 2018, <https://home.treasury.gov/news/press-releases/sm0338>.

Security Council, in “shaping the policy of the Russian Government threatening the territorial integrity, sovereignty or independence of Ukraine.”<sup>406</sup> In relation to the 2022 Russian invasion of Ukraine, the U.S. Department of the Treasury considers Nikolai Patrushev part of Russia’s “ruling elite.”<sup>407</sup>

## Sergei Shoigu

296. Sergei Shoigu has served as defense minister of Russia since 2012.<sup>408</sup> The defense minister is responsible for the Russian armed forces, encompassing land forces, air and space forces, and the navy. He is directly subordinate to the president of Russia—the supreme commander in chief of the armed forces—and is thus second in the chain of command.<sup>409</sup> As defense minister, Sergei Shoigu reportedly oversees the GRU.<sup>410</sup> Russian independent investigative outlets published a detailed profile of Sergei Shoigu, stating that, since he took over the Ministry of Defense in 2012, his priority has been public relations.<sup>411</sup> He has established a sizable communications department within the ministry and secured media attention over his activities.
297. Sergei Shoigu is a permanent member of the Security Council,<sup>412</sup> and is therefore one of the select individuals with a vote on state security decisions. Sergei Shoigu is also one of the *siloviki*,<sup>413</sup> regarded as having Vladimir Putin’s trust. Sergei Shoigu was one of the founders of the United Russia political party in 2001 and is to this day considered one of its most prominent members and among Vladimir Putin’s strongest supporters.<sup>414</sup> One media outlet quotes a former employee of the presidential administration saying that Sergei Shoigu can be considered one of the leaders of a powerful political clan, which unites the governor of the Moscow region, Andrei

406 Her Majesty’s Treasury—Office of Financial Sanctions Implementation, Consolidated List of Financial Sanctions Targets in the UK, updated March 15, 2022, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1061009/Russia.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061009/Russia.pdf).

407 U.S. Department of the Treasury, “U.S. Treasury Imposes Sanctions on Russian Federation President Vladimir Putin and Minister of Foreign Affairs Sergei Lavrov,” February 25, 2022, <https://home.treasury.gov/news/press-releases/jy0610>.

408 Library of Congress, “Ministry of Defense, Russia Federation (2012–2024),” <https://www.loc.gov/item/lcwaN0022690/?u>.

409 The Kremlin Official Website, “Commander-in-Chief of the Armed Forces,” <http://www.en.kremlin.ru/structure/president/authority/commander>; The Russian Government, “Ministry of Defence of the Russian Federation,” <http://government.ru/en/department/94/about/>.

410 The Russian Military Intelligence Agency now uses the name “Main Directorate of the General Staff”: see Ministry of Defense of the Russian Federation, “Main Directorate of the General Staff of the Armed Forces of the Russian Federation,” [https://structure.mil.ru/structure/ministry\\_of\\_defence/details.htm?id=9711@egOrganization](https://structure.mil.ru/structure/ministry_of_defence/details.htm?id=9711@egOrganization); Roch, “Putin’s Security Men.”

411 iStories and Agency, “Minister with a Small Cult of Personality,” September 6, 2021, <https://istories.media/investigations/2021/09/06/ministr-s-malenkim-kultom-lichnosti/>.

412 Kremlin, “Security Council Structure—Members,” <http://www.en.kremlin.ru/structure/security-council/members>.

413 Langton, “Meet Russia’s Siloviki.”

414 United Russia, “Shoigu Sergey Kuzhugetovich,” <https://er.ru/person/62a3fd77-d8e1-4663-8f45-36cf0679c905>.

Vorobyov, the chairwoman of the Federation Council, Valentina Matviyenko, and a friend of Vladimir Putin, Gennady Timchenko.<sup>415</sup> The clan is connected by related businesses and is in good standing with Vladimir Putin.

298. Sergei Shoigu's personal relationship with Vladimir Putin is documented as well. Vladimir Putin visited Sergei Shoigu several times at his home region in the Siberian taiga, where they spent quality time together.<sup>416</sup> Media reports speculate that Vladimir Putin's visit to Sergei Shoigu in late September 2021 may have been an occasion for planning Russia's acts of aggression in Ukraine in 2022.<sup>417</sup>
299. Sergei Shoigu is hence considered to be heavily involved in Russia's military decision-making not only by virtue of his official role, but also in practice. Sergei Shoigu has been identified as one of the two architects of the 2014 annexation of Crimea, support for pro-Russian non-state armed groups in Donbas, and the formulation of Russia's military strategy in Syria.<sup>418</sup>
300. Russia experts and commentators also consider Sergei Shoigu to be one of the key architects of the 2022 Russian invasion of Ukraine: Some analysts with expertise on the Russian security services identify Sergei Shoigu as one of two individuals most strongly entrenched in Vladimir Putin's circle of trusted advisors.<sup>419</sup> These experts also credit the Russian military with driving Russia's 2022 aggression against Ukraine.<sup>420</sup> Sergei Shoigu was also identified by the *New York Times* as one of the individuals who would figure most prominently in making the decision on Russia's 2022 invasion of Ukraine,<sup>421</sup> and by another expert on Russian policy as a member of Vladimir Putin's "war cabinet."<sup>422</sup> One source also reports that Sergei Shoigu ordered the buildup of Russian troops at the border with Ukraine from March to April 2021 and oversaw war games in Belarus in February 2022, in advance of the 2022 invasion.<sup>423</sup>

415 Roman Shleynov, "Global, Financial, Family," *Novaya Gazeta*, November 20, 2008, <https://novayagazeta.ru/articles/2008/11/20/35800-mirovoy-finansovyy-semeynyy>.

416 Alexey Korostelev, "The President's Lair: In Which Taiga Estate Does Putin Celebrate Birthdays and Make Key Decisions?," TVRain, May 20, 2017, [https://tvrain.ru/teleshov/reportazh/logovo\\_presidenta\\_v\\_taige-435153/](https://tvrain.ru/teleshov/reportazh/logovo_presidenta_v_taige-435153/); Kremlin, "Vladimir Putin Spent the Weekend in Tuva and the Krasnoyarsk Territory," July 26, 2013, <http://kremlin.ru/events/president/news/18957>; Kremlin, "Trip to Tuva, August 1–3," August 7, 2017, <http://kremlin.ru/events/president/news/55308>; Kremlin, "Vladimir Putin Spent a Holiday in Siberia," October 7, 2019, <http://www.kremlin.ru/events/president/news/61732>.

417 Sherwin, "Putin's Inner Circle."

418 Sebastian Seibt, "Shoigu and Gerasimov: Masters of Putin's Wars," *France 24*, March 4, 2022, <https://www.france24.com/en/europe/20220304-shoigu-and-gerasimov-masters-of-putin-s-wars>.

419 Soldatov and Borogan, "Putin Conscripts History."

420 Andrei Soldatov and Irina Borogan, "The Man Behind Putin's Military—How Sergey Shoigu Paved the Way for Russia's Ukraine Assault," *Foreign Affairs*, February 26, 2022, [https://www.foreignaffairs.com/articles/2022-02-26/man-behind-putins-military?utm\\_campaign=tw\\_daily\\_soc&utm\\_medium=social&utm\\_source=twitter\\_posts](https://www.foreignaffairs.com/articles/2022-02-26/man-behind-putins-military?utm_campaign=tw_daily_soc&utm_medium=social&utm_source=twitter_posts).

421 Troianovski, "The Hard-Line Russian Advisers."

422 Gabuev, "Alexander Gabuev Writes from Moscow."

423 Roch, "Putin's Security Men."

301. On May 12, 2024, President Vladimir Putin appointed Sergei Shoigu as the secretary of the Security Council of the Russian Federation, following his tenure as minister of defense from 2012 to 2024. In his new role, Shoigu oversees national security policy and continues to exert significant influence over Russia's strategic military direction. His transition to this position underscores the sustained trust placed in him by President Putin and reflects his ongoing involvement in shaping Russia's defense and security policies.<sup>424</sup>
302. Sergei Shoigu has been sanctioned for his involvement in the 2022 Russian invasion of Ukraine. The EU placed Sergei Shoigu on its sanctions list in February 2022 because of his role as defense minister, his public comments about Crimea being and remaining Russian, his command and order of Russian troops in the illegally annexed Crimea, and his command and order of Russian troops' positioning at the border with Ukraine.<sup>425</sup> In particular, the EU found that Sergei Shoigu is "ultimately responsible for any military action against Ukraine" and is "therefore responsible for actively supporting and implementing actions and policies that undermine and threaten the territorial integrity, sovereignty and independence of Ukraine as well as the stability or security in Ukraine." The U.S. Department of the Treasury also placed Sergei Shoigu on its OFAC sanctions list in February 2022, finding that he is one of the individuals "directly responsible for the further invasion of Ukraine."<sup>426</sup> Thereafter, the UK Treasury placed Sergei Shoigu on its sanctions list in March 2022 in relation to the 2022 Russian invasion of Ukraine.<sup>427</sup>

## Sergei Naryshkin

303. Sergei Naryshkin has served as director of the Russian Foreign Intelligence Service (SVR) since 2016, when he was appointed to the position by Vladimir Putin.<sup>428</sup> The Federal Law on Foreign Intelligence tasks the SVR with conducting Russia's intelligence activities in the political, economic, military-strategic, scientific, technical, and environmental spheres, and with providing intelligence information to Russia's highest legislative and executive bodies.<sup>429</sup> The SVR hence provides intelligence information

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424 DW, "Ukraine Updates: Putin Appoints Shoigu to Security Council," December 5, 2024, <https://www.dw.com/en/ukraine-updates-putin-appoints-shoigu-to-security-council/live-69056641>.

425 Council of the European Union, Council Implementing Regulation (EU) No. 2022/260 implementing Regulation (EU) No. 269/2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, February 23, 2022, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2022:042I:FULL&from=EN>.

426 U.S. Department of the Treasury, "U.S. Treasury Imposes Sanctions."

427 Her Majesty's Treasury—Office of Financial Sanctions Implementation.

428 Foreign Intelligence Service of the Russian Federation, "Director of the Foreign Intelligence Service of the Russian Federation," [http://www.svr.gov.ru/svr\\_today/director.htm](http://www.svr.gov.ru/svr_today/director.htm).

429 Federal Law No. 5-FZ "On Foreign Intelligence," Article 11, January 10, 1996, [http://www.svr.gov.ru/svr\\_today/doc02.htm](http://www.svr.gov.ru/svr_today/doc02.htm).

to Vladimir Putin, the Federation Council, and the State Duma, among others.<sup>430</sup> One source reports that the SVR provides Vladimir Putin with a daily report of foreign intelligence issues.<sup>431</sup> The goals and objectives of the SVR are to ensure Russian national security and interests.<sup>432</sup> In order to accomplish its mandate, the SVR is empowered to use both overt and covert methods and means of intelligence activities.<sup>433</sup> As director of the SVR, Sergei Naryshkin oversees its activities.

304. Sergei Naryshkin is a permanent member of the Security Council,<sup>434</sup> and is therefore one of the select individuals with a vote on state security decisions. Prior to his role as director of the SVR, Sergei Naryshkin served as chairman of the State Duma from 2011 to 2016, and as head of the presidential administration from 2008 to 2011.<sup>435</sup> He also reportedly attended the Higher School of the KGB for two years, starting in 1978.<sup>436</sup> Sergei Naryshkin is hence one of the *siloviki*,<sup>437</sup> regarded as having Vladimir Putin's particular trust.
305. Russia experts and commentators consider Sergei Naryshkin to hold significant sway over security decisions, including the 2022 Russian invasion of Ukraine: Some analysts with expertise on the Russian security services identify Sergei Naryshkin as one of two individuals most strongly entrenched in President Putin's circle of trusted advisors.<sup>438</sup> Sergei Naryshkin was also identified by the *New York Times*' Moscow bureau chief as one of the individuals who would figure most prominently in making the decision on Russia's 2022 invasion of Ukraine,<sup>439</sup> and by another expert on Russian policy as a member of President Putin's "war cabinet."<sup>440</sup> It has also been commented that Sergei Naryshkin could be a potential successor to President Putin.<sup>441</sup>

430 Foreign Intelligence Service of the Russian Federation, "FAQ," <http://www.svr.gov.ru/pressburo/faq.htm>.

431 Adam Campbell, "A Bad Crime Novel? Russia's Foreign Intelligence Service (SVR)," The Security Distillery, September 15, 2021, <https://thesecuritydistillery.org/all-articles/-a-bad-crime-novel-russias-foreign-intelligence-service-svr>.

432 Foreign Intelligence Service of the Russian Federation, "FAQ."

433 Federal Law No. 5-FZ "On Foreign Intelligence," Article 13.

434 Kremlin, "Security Council Structure—Members."

435 Security Council of the Russian Federation, "Members of the Security Council of the Russian Federation since Its Inception."

436 Roman Shleynov, "Nikolai Tokarev: The Path from the KGB to Transneft," *Vedomosti*, February 11, 2013, [https://web.archive.org/web/20150823051758/https://www.vedomosti.ru/library/articles/2013/02/11/revizor\\_iz\\_razvedochnoj\\_partii](https://web.archive.org/web/20150823051758/https://www.vedomosti.ru/library/articles/2013/02/11/revizor_iz_razvedochnoj_partii).

437 Langton, "Meet Russia's Siloviki."

438 Soldatov and Borogan, "Putin Conscripts History."

439 Troianovski, "The Hard-Line Russian Advisers."

440 Gabuev, "Alexander Gabuev Writes from Moscow."

441 Roch, "Putin's Security Men."

306. Sergei Naryshkin was placed on EU and U.S. OFAC sanctions lists in 2014 for contributing to undermining Ukraine’s sovereignty.<sup>442</sup> The UK Treasury also placed Sergei Naryshkin on its sanctions list in 2020 for supporting the deployment of Russian forces in Ukraine, publicly supporting the Russia-Crimea unification treaty and the related federal constitutional law, and his positions as director of the SVR and permanent member of the Security Council.<sup>443</sup> In relation to the 2022 Russian invasion of Ukraine, the U.S. Department of the Treasury considers Sergei Naryshkin part of Russia’s “ruling elite.”<sup>444</sup>

## Valentina Matviyenko

307. Valentina Matviyenko has served as chairwoman or speaker of the Federation Council since 2011.<sup>445</sup> The Russian Parliament, known as the Federal Assembly, comprises two chambers—the Federation Council and the State Duma.<sup>446</sup> The Federation Council currently includes 200 members, who are appointed by representative and executive organs of federation entities.<sup>447</sup> The chairperson of the Federation Council is elected from among its members, and is tasked with chairing its sessions and overseeing its internal routine.<sup>448</sup> The Federation Council is constitutionally entrusted with jurisdiction over several matters, including approving the president’s edicts introducing martial law, approving the president’s edicts introducing a state of emergency, and deciding on the possibility of using Russian armed forces outside Russian territory.<sup>449</sup> One of the Federation Council’s main tasks is to consider draft federal laws adopted by the State Duma, and ultimately to make the decision on enactment of federal laws for the president’s signing and promulgation.<sup>450</sup> Relatedly, the Federal Law on Security provides that the Federation Council is responsible for considering federal laws on security that are adopted by the State Duma.<sup>451</sup> Thus, by virtue of her position as chairwoman or speaker of the Federation Council, Valentina Matviyenko is heavily involved in the enactment of legislation in Russia.

442 Council of the European Union, Council Implementing Regulation (EU) No. 284/2014 implementing Regulation (EU) No. 269/2014; U.S. Department of the Treasury, “Treasury Sanctions Russian Officials, Members of the Russian Leadership’s Inner Circle, and an Entity for Involvement in the Situation in Ukraine,” March 20, 2014, <https://www.treasury.gov/press-center/press-releases/pages/jl23331.aspx>.

443 Her Majesty’s Treasury—Office of Financial Sanctions Implementation.

444 U.S. Department of the Treasury, “U.S. Treasury Imposes Sanctions.”

445 Federation Council, “Speaker of the Federation Council of the Federal Assembly of the Russian Federation,” <http://council.gov.ru/en/structure/persons/257/>.

446 Constitution of the Russian Federation (1993, as amended 2020), Article 95.

447 Federation Council of the Federal Assembly of the Russian Federation, “Composition,” <http://council.gov.ru/en/structure/council/>.

448 Constitution of the Russian Federation (1993, as amended 2020), Article 101.

449 Constitution of the Russian Federation (1993, as amended 2020), Article 102.

450 Constitution of the Russian Federation (1993, as amended 2020), Articles 105–107.

451 Federal Law No. 390-FZ “On Security.”

308. Valentina Matviyenko is also a permanent member of the Security Council,<sup>452</sup> and is therefore one of the select individuals with a vote on state security decisions. Valentina Matviyenko was placed on the EU and the U.S. OFAC sanctions lists in 2014 for contributing to undermining Ukraine’s sovereignty.<sup>453</sup> The UK Treasury also placed Valentina Matviyenko on its sanctions list in 2020 for her role as speaker of the Federation Council and her public support in the Federation Council of the deployment of Russian forces in Ukraine in March 2014.<sup>454</sup> In relation to the 2022 Russian invasion of Ukraine, the U.S. Department of the Treasury considers Valentina Matviyenko part of Russia’s “ruling elite.”<sup>455</sup>

## Sergei Beseda

309. Sergei Beseda heads the Fifth Service of the FSB, the Service of Operational Information and International Relations,<sup>456</sup> otherwise known as the FSB’s foreign intelligence and espionage branch.<sup>457</sup> The FSB’s operations are governed by the Federal Law on the Federal Security Service.<sup>458</sup> The law provides that the FSB is the unified central system of Russia’s federal security service organs, tasked with safeguarding Russian security.<sup>459</sup> The FSB’s main areas of activity are counterintelligence, combating terrorism, combating crime, intelligence, border activity, and safeguarding information security.<sup>460</sup> The FSB is obliged to perform a number of tasks, including informing the president and others of security threats, combating foreign intelligence activity that seeks to harm Russia, safeguarding the security of Russian authorities and state communications, and undertaking foreign intelligence measures to safeguard Russian security.<sup>461</sup> The FSB also has wide-ranging powers, including the use of special methods and means for intelligence and counter-intelligence activities, infiltration of foreign states’ special services and organizations, extraterritorial conduct of foreign intelligence activity, and the authority to arm its staff.<sup>462</sup>

452 Kremlin, “Security Council Structure—Members.”

453 Council of the European Union, Council Implementing Regulation (EU) No. 284/2014 implementing Regulation (EU) No. 269/2014; U.S. Department of the Treasury, “Issuance of a New Ukraine-Related Executive Order; Ukraine-Related Designations,” March 17, 2014, <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20140317>.

454 Her Majesty’s Treasury—Office of Financial Sanctions Implementation.

455 U.S. Department of the Treasury, “U.S. Treasury Imposes Sanctions.”

456 Thomas Harding, “Russian General Killed and Clutch of Spy Chiefs Arrested,” *The National News*, March 11, 2022, <https://www.thenationalnews.com/world/uk-news/2022/03/11/russian-general-killed-and-clutch-of-spy-chiefs-arrested/>.

457 See Russian Federal Security Service (FSB) website, <http://www.fsb.ru/fsb/structure.htm>; Andrei Soldatov, “Inside Vladimir Putin’s Shadowy Army of Global Spies,” *The Daily Beast*, August 30, 2021, <https://www.thedailybeast.com/inside-vladimir-putins-shadowy-army-of-global-spies>.

458 Federal Law No. 40-FZ “On the Federal Security Service,” February 22, 1995, unofficial English translation by the Council of Europe available here: <https://policehumanrightsresources.org/content/uploads/2016/08/Federal-Law-on-Federal-Security-Service-Russia-1995.pdf?x96812>.

459 Federal Law No. 40-FZ “On the Federal Security Service,” Article 1.

460 Federal Law No. 40-FZ “On the Federal Security Service,” Article 8.

461 Federal Law No. 40-FZ “On the Federal Security Service,” Article 12.

462 Federal Law No. 40-FZ “On the Federal Security Service,” Article 13.

310. Sergei Beseda is believed to have overseen the FSB's foreign intelligence work in relation to Ukraine.<sup>463</sup> For instance, his signature reportedly appears on various sensitive documents on intelligence operations conducted in Ukraine.<sup>464</sup> Additionally, following the opening of a Ukrainian investigation into Sergei Beseda's involvement in crimes committed in Kyiv in February 2014, the FSB publicly confirmed that Sergei Beseda was in Kyiv at the time, reportedly checking on the protection of the Russian embassy.<sup>465</sup>
311. In the summer of 2024, Sergei Beseda transitioned from his role as head of the Fifth Service of the FSB, a position he held from 2009 to 2024, to become an advisor to FSB Director Alexander Bortnikov. As an advisor, Beseda continues to play a role in Russia's intelligence and security apparatus. Notably, he was part of the Russian delegation in talks with the United States in Riyadh in March 2025, indicating his continued involvement in high-level security and diplomatic engagements.<sup>466</sup>
312. Sergei Beseda was placed on the EU and the U.S. OFAC sanctions lists in 2014 for contributing to undermining Ukraine's sovereignty.<sup>467</sup> The U.S. Department of the Treasury also identified the FSB as being involved in the funding and supporting of separatist activities in Crimea and eastern Ukraine in 2014,<sup>468</sup> indicating the role that the FSB has historically played in undermining the sovereignty of Ukraine. The UK Treasury also placed Sergei Beseda on its sanctions list in 2020 for his role in heading the FSB service responsible for overseas intelligence operations and international activity.<sup>469</sup>
313. A Russian political analysis firm identifies Sergei Beseda's service of the FSB as having participated in preparations for the 2022 Russian invasion of Ukraine.<sup>470</sup> This is supported by the findings of an expert on Russian security services, who notes that the FSB's Fifth Service was responsible for providing Vladimir Putin with information on political developments in Ukraine in the lead-up to the 2022 invasion.<sup>471</sup>

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463 R. Politik, Bulletin No. 5 (91)—Analytical Report, March 8, 2022, on file.

464 Soldatov, "Inside Vladimir Putin's Shadowy Army."

465 "FSB of the Russian Federation: The Responsible Officer of the Department Was in Kyiv on February 20–21," Interfax, April 5, 2014, <https://www.interfax.ru/russia/369704>.

466 Reuters, "Who Is Heading the Russian Team at Ukraine Talks with U.S. in Riyadh?," March 24, 2025, <https://www.reuters.com/world/europe/spy-diplomat-head-russian-team-ukraine-talks-with-us-riyadh-2025-03-24/>.

467 Council of the European Union, Council Implementing Regulation (EU) No. 810/2014 implementing Regulation (EU) No. 269/2014; U.S. Department of the Treasury, "Announcement of Treasury Sanctions on Entities Within the Financial Services and Energy Sectors of Russia, Against Arms or Related Material Entities, and Those Undermining Ukraine's Sovereignty," July 16, 2014, <https://www.treasury.gov/press-center/press-releases/pages/jl2572.aspx>.

468 Soldatov, "Inside Vladimir Putin's Shadowy Army."

469 Her Majesty's Treasury—Office of Financial Sanctions Implementation.

470 R. Politik, Bulletin No. 5 (91), on file.

471 Andrei Soldatov and Irina Borogan, "From Bad Intel to Worse—Putin Reportedly Turns on FSB Agency That Botched Russia's Ukraine Prep," Meduza, March 11, 2022, <https://meduza.io/en/feature/2022/03/11/from-bad-intel-to-worse>.

## Sergei Lavrov

314. Sergei Lavrov has served as the foreign minister of Russia since 2004.<sup>472</sup> In this position, he is responsible for the conduct of Russia's international relations and oral statements made by him may be legally binding on Russia.<sup>473</sup> Sergei Lavrov has hence been instrumental in justifying Russia's acts of aggression against Ukraine, including before international fora. Sergei Lavrov is also a permanent member of the Security Council,<sup>474</sup> and therefore one of the select individuals with a vote on state security decisions.
315. In relation to the 2022 Russian invasion of Ukraine, the UK Treasury placed Sergei Lavrov on its sanctions list in February 2022 for his role as a "senior member of the Government of Russia, and a key decision-maker," and therefore his involvement in "attempts to destabilise Ukraine and undermining and threaten the territorial integrity, sovereignty or independence of Ukraine."<sup>475</sup> The U.S. Department of the Treasury also placed Lavrov on its OFAC sanctions list in February 2022 for his role, as foreign minister, in advancing the false narrative that Ukraine is the aggressor; for his having "aggressively sought to justify Russia's actions globally"; and for his role, as the top diplomat representing Russia globally, in helping to "facilitate Russia's aggressive actions against sovereign states."<sup>476</sup>

## Valery Gerasimov

316. As chief of general staff, the central organ of the military command of the armed forces, he oversees operational command of the Armed Forces under the Russian Ministry of Defense.<sup>477</sup> Valery Gerasimov is third in the chain of command after Vladimir Putin and Sergei Shoigu.<sup>478</sup>
317. Valery Gerasimov is a member of the Security Council,<sup>479</sup> and is therefore one of the select individuals with the right to provide an advisory vote on state security decisions.

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472 Security Council of the Russian Federation, "Members of the Security Council of the Russian Federation since Its Inception."

473 Joanne Foakes, *The Position of Heads of State and Senior Officials in International Law* (Oxford University Press, 2014), 113; see also *Legal Status of Eastern Greenland*, Permanent Court of International Justice, Ser A/B, No 53 (1933).

474 Kremlin, "Security Council Structure—Members."

475 Her Majesty's Treasury—Office of Financial Sanctions Implementation.

476 U.S. Department of the Treasury, "U.S. Treasury Imposes Sanctions."

477 Waller and Gorenburg, "The Central Brain of the Russian Armed Forces," September 2024, <https://www.cna.org/reports/2024/10/The-Central-Brain-of-the-Russian-Armed-Forces.pdf>.

478 Barany, "Armies and Autocrats: Why Putin's Military Failed," *Journal of Democracy*, January 2023, <https://www.journalofdemocracy.org/articles/armies-and-autocrats-why-putins-military-failed/>.

479 Kremlin, "Security Council Structure—Members", <http://www.en.kremlin.ru/structure/security-council/members>.

318. Valery Gerasimov is considered to be heavily involved in Russia's military decision-making not only by virtue of his official role, but also in practice. For instance, a journalist identified Valery Gerasimov as one of the two architects of the 2014 annexation of Crimea, support for pro-Russian non-state armed groups in Donbas, and the formulation of Russia's military strategy in Syria.<sup>480</sup>
319. The UK Treasury placed Valery Gerasimov on its sanctions list in 2020 for his role as chief of the general staff of the armed forces and as deputy minister of defense.<sup>481</sup> In sanctioning Valery Gerasimov, the UK Treasury held him responsible for the mass deployment of Russian troops along the border with Ukraine and failure to de-escalate the situation. In relation to the 2022 Russian invasion of Ukraine, the U.S. Department of the Treasury placed Valery Gerasimov on its OFAC sanctions list in February 2022.<sup>482</sup>
320. Each of the accused persons—Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov—planned, prepared, initiated, and/or executed Russia's acts of aggression. The accused persons perpetrated these acts, either by taking steps personally or by virtue of their privileged position in Russian political and/or military decision-making, directing the actions of the Russian state and its agents.

## THE ACCUSED PERSONS' ACTS AS PART OF THE CRIME OF AGGRESSION

### Planning

321. Planning includes participating in high-level meetings during which plans for the acts of aggression are formulated,<sup>483</sup> and enacting legislation, decrees, and ordinances concerning the aggressive plans.<sup>484</sup>

480 Seibt, "Shoigu and Gerasimov: Masters of Putin's War", France24, <https://www.france24.com/en/europe/20220304-shoigu-and-gerasimov-masters-of-putin-s-wars>.

481 Her Majesty's Treasury—Office of Financial Sanctions Implementation.

482 U.S. Department of the Treasury, "U.S. Treasury Imposes Sanctions."

483 The tribunals that tried individuals for crimes against peace after World War II found attendance in high-level meetings constituted planning. Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 64 (judgment against Göring para. 64 (g)), 66 (judgment against Keitel, para. 72 (d), (f), (g), (h)), 67 (judgment against Raeder, para. 74 (d)), 67 (judgment against Jodl, para. 76(g)). See also Carrie McDougall, *The Crime of Aggression under the Rome Statute of the International Criminal Court*, 2nd ed. (Cambridge University Press, 2021), 237.

484 Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 79 (judgment against Koki Hirota, para. 335 (b)).

## *The accused persons attended high-level meetings to plan Russia's acts of aggression*

### CRIMEA

322. The accused persons convened high-level meetings to plan Russia's acts of aggression in Crimea:
- On January 31, 2014, the Russian Security Council held a meeting and discussed, inter alia, the situation in Ukraine. The meeting was attended by Dmitry Medvedev, Valentina Matviyenko, Sergei Ivanov, Nikolai Patrushev, Vladimir Kolokoltsev, Sergei Lavrov, Alexander Bortnikov, Mikhail Fradkov, Rashid Nurgaliyev, and Council Boris Gryzlov.<sup>485</sup>
  - On February 21, 2014, the Russian Security Council met exclusively to discuss the situation in Ukraine. The attendees were Dmitry Medvedev, Valentina Matviyenko, Sergei Naryshkin, Sergei Ivanov, Nikolai Patrushev, Sergei Lavrov, Sergei Shoigu, Alexander Bortnikov, and Mikhail Fradkov.<sup>486</sup>
  - On the night of February 22–23, 2014, as acknowledged by the ECtHR (see paragraph 73 above), Vladimir Putin stated in a meeting with heads of security agencies that he had made the decision to “start working on the return of Crimea to the Russian Federation.”<sup>487</sup>
  - On March 6, 2014, another meeting of the Russian Security Council was held, “focus[ing] on the situation in Ukraine, specifically in the light of the resolution passed today by the Supreme Council of Crimea.” The meeting was attended by Dmitry Medvedev, Valentina Matviyenko, Sergei Naryshkin, Sergei Ivanov, Nikolai Patrushev, Sergei Shoigu, Alexander Bortnikov, and Mikhail Fradkov.<sup>488</sup>

### DONBAS

323. The accused persons—Vladimir Putin, Sergei Shoigu, Sergei Lavrov, Nikolai Patrushev, Sergei Naryshkin, and others—participated in the planning and coordination of Russia's military and political intervention in Eastern Ukraine beginning in early 2014, as detailed above.

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485 Kremlin, “Meeting with Permanent Members of the Security Council,” January 31, 2014, <http://en.kremlin.ru/events/president/news/20132>.

486 Kremlin, “Meeting with Permanent Members of the Security Council,” February 21, 2014, <http://en.kremlin.ru/events/president/news/20301>.

487 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision of December 16, 2020, paras. 199, 331.

488 Kremlin, “Meeting with Permanent Members of the Security Council,” March 6, 2014, <http://en.kremlin.ru/events/president/news/20393>.

324. Russian national Igor Girkin (also known as “Strelkov”), a former FSB colonel, emerged as the military commander of the DPR by May 2014. Girkin has publicly stated that he was sent to Donbas under orders from Russian authorities and that the separatist movement would have collapsed without Russian leadership and support.<sup>489</sup> In April 2014, Girkin was also sent to eastern Ukraine to take effective control of the pro-separatist movement, on behalf of the Kremlin.<sup>490</sup> In July 2014, Girkin was formally appointed as the head of the Security Council and minister of defense of the DPR under a leadership structure supported and coordinated by Russian political advisors.<sup>491</sup> In its merits judgment, the ECtHR highlighted Girkin’s central role in coordinating the DPR and the LPR forces, treating his position as evidence that the Kremlin exercised direct control over separatist operations in Donbas.<sup>492</sup>
325. In June 2014, Russian Security Council officials including Patrushev and Shoigu held internal discussions, acknowledged in public Russian media, on supporting Russian nationals and “compatriots” in eastern Ukraine. These discussions included planning for covert cross-border transfers of weapons and fighters. Reports by the Royal United Services Institute (RUSI) and independent Russian journalists confirmed that the Russian Ministry of Defense was instrumental in coordinating logistics, training camps near the border, and arms deliveries to the Donbas region.<sup>493</sup>
326. As described above, NATO and independent analysts identified these operations as being conducted under the authority of Defense Minister Sergei Shoigu and with coordination from General Staff officers.<sup>494</sup>
327. The role of the Russian Security Council, chaired by Vladimir Putin and attended by Patrushev, Shoigu, Lavrov, and Naryshkin, in shaping the policy of “Novorossiya” further demonstrates collective planning for the territorial fragmentation of Ukraine. The council oversaw the integration of military, political, and intelligence efforts to destabilize eastern Ukraine, a campaign consistent with the objective of exercising control over Donbas through proxy forces and eventual incorporation into Russia.<sup>495</sup>

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489 Interview with Igor Girkin, “I am the one who pulled the trigger of war,” *Zavtra*, 2014, quoted in <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21456&lang=en>.

490 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 184.

491 Igor Girkin (Strelkov) was appointed as minister of defense of the so-called Donetsk People’s Republic on or around July 14, 2014. *Ukraine and the Netherlands v. Russia (Re Eastern Ukraine)*, Grand Chamber Decision of November 30, 2022, para. 108.

492 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 356.

493 Igor Sutyagin, “Russian Forces in Ukraine,” *Royal United Services Institute*, March 9, 2015, <https://www.rusi.org/explore-our-research/publications/briefing-papers/russian-forces-ukraine>.

494 SACEUR, press briefing, August 28, 2014; IISS, *The Military Balance 2015*.

495 President of Russia, Security Council Meeting Notes, July–September 2014, Kremlin, available at <http://en.kremlin.ru/events/security-council>.

328. As such, the accused persons participated in a concerted campaign involving covert invasion, political manipulation, and sustained armed intervention in Ukraine’s Donbas region. These coordinated acts, initiated by individuals “in a position effectively to exercise control over or to direct the political or military action of a State,” satisfy the leadership requirement under Article 8 *bis* (1) of the Rome Statute and amount to the crime of aggression.

## FEBRUARY 2022 FULL-SCALE INVASION

329. The accused persons convened high-level meetings to plan Russia’s acts of aggression relating to and following from February 2022 events:
330. On February 18, 2022, the Russian Security Council held a meeting to discuss the situation in Ukraine and “growing tensions that are provoked by external forces.”<sup>496</sup> The meeting was attended by Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, and Sergei Lavrov.<sup>497</sup>
331. On or about February 21, 2022,<sup>498</sup> the Russian Security Council held an extraordinary meeting to discuss the situation in Donbas.<sup>499</sup> At this meeting, members of the Security Council agreed on the recognition of the DPR and the LPR as independent states. The meeting was attended by Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, and Sergei Lavrov.<sup>500</sup>
332. A statement from the Kremlin confirmed that Russia’s military operation in Ukraine followed a previously laid out plan to demilitarize Ukraine and ensure its neutrality. Following a call between Vladimir Putin and the president of France, Emmanuel Macron, on March 3, 2022, the statement read that Russia’s operation was going “according to plan.”<sup>501</sup> It further stated:

Vladimir Putin outlined in detail the fundamental approaches and conditions in the context of negotiations with representatives of Kyiv. It was confirmed that, first

496 Kremlin, “Meeting with Permanent Members of the Security Council,” February 18, 2022, <http://en.kremlin.ru/events/president/news/67803>.

497 Kremlin, “Meeting with Permanent Members of the Security Council,” February 18, 2022.

498 There is reason to believe that this meeting was staged, with Russian independent network TV Rain observing that Russian Defense Minister Sergei Shoigu’s watch displayed a time five hours earlier than the purported “live” meeting that was aired. See Shaun Walker, “Putin’s Absurd, Angry Spectacle Will Be a Turning Point in His Long Reign,” *The Guardian*, February 21, 2022, <https://www.theguardian.com/world/2022/feb/21/putin-angry-spectacle-amounts-to-declaration-war-ukraine>; Dave Lawler, “Putin Orders Russian ‘Peacekeeping Operations’ in Eastern Ukraine,” *Axios*, <https://www.axios.com/putin-recognize-donetsk-luhansk-republics-ukraine-166bbe54-2d6a-446a-87bd-e9e63cf21ca9.html>.

499 Kremlin, “Security Council Meeting,” February 21, 2022, <http://en.kremlin.ru/events/president/news/67825>, video available here: <http://kremlin.ru/events/president/news/67825>.

500 Kremlin, “Security Council Meeting,” February 21, 2022

501 Kremlin, “Telephone Conversation with French President Emmanuel Macron,” March 3, 2022, <http://kremlin.ru/events/president/news/67898>.

of all, we are talking about the demilitarisation and neutral status of Ukraine, so that a threat to the Russian Federation will never emanate from its territory.

333. The statement also noted that “It was emphasised [by Vladimir Putin] that the tasks of the special military operation will be fulfilled in any event.”
334. Sergei Lavrov has stated that Russia had decided to launch its “special military operation” in Ukraine to achieve the same planned objective: to protect the rights of Russian speakers and citizens of Ukraine and to demilitarize and denazify Ukraine.<sup>502</sup>

*The accused persons enacted legislation and decrees concerning Russia’s aggressive plans*

**CRIMEA**

335. Legislation and presidential decrees/orders were enacted to plan Russia’s acts of aggression in Crimea.
336. The accused persons—Valentina Matviyenko, Sergei Naryshkin, and Dmitry Medvedev—played central roles in the legislative and executive processes by which Russia formalized and institutionalized its acts of aggression against Ukraine in Crimea, in violation of Article 8 *bis* of the Rome Statute.
337. On March 1, 2014, Vladimir Putin submitted an appeal to the Federation Council requesting authorization for the use of Russian armed forces to be deployed in Crimea.<sup>503</sup> The appeal stated:
- In connection with the extraordinary situation that has developed in Ukraine and the threat to citizens of the Russian Federation, our compatriots, the personnel of the military contingent of the Russian Federation Armed Forces deployed on the territory of Ukraine (Autonomous Republic of Crimea) in accordance with international agreement; pursuant to Article 102.1 (d) of the Constitution of the Russian Federation, I hereby appeal to the Council of Federation of the Federal Assembly of the Russian Federation to use the Armed Forces of the Russian Federation on the territory of Ukraine until the social and political situation in that country is normalised.
338. On March 1, 2014, the Federation Council of the Federal Assembly of the Russian Federation, then chaired by Valentina Matviyenko, accepted Vladimir Putin’s request and unanimously adopted Resolution No. 48-SF authorizing the use of Russian armed

502 OHCHR, “On the Second Day of the Human Rights Council’s High-Level Segment, Russia’s Attack on Ukraine Continues to Dominate the Discussion,” March 1, 2022, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28182&LangID=E>.

503 Kremlin, “Vladimir Putin submitted appeal to the Federation Council,” March 1, 2014, <http://en.kremlin.ru/events/president/news/20353>.

forces on the territory of Ukraine. This resolution served as the formal legal basis for Russia's military deployment in Crimea and Donbas and constituted an integral part of the planning and initiation of Russia's aggression.<sup>504</sup>

339. On March 20, 2014, the State Duma, then chaired by Sergei Naryshkin, adopted Federal Constitutional Law No. 6-FKZ and Federal Law No. 36-FZ, ratifying the so-called "Treaty on the Accession of the Republic of Crimea to the Russian Federation." The Federation Council, again chaired by Matviyenko, ratified the treaty on March 21, 2014.<sup>505</sup> These legislative acts unlawfully incorporated Crimea and Sevastopol into the Russian Federation in contravention of international law and the UN Charter.
340. Through their leadership roles in drafting, adopting, and endorsing legislation that enabled and entrenched the occupation of Crimea, the accused persons directly contributed to the planning and execution of the crime of aggression. Their conduct satisfies the leadership requirement under Article 8 *bis* (1) of the Rome Statute, as they exercised effective control over the political acts that facilitated the unlawful use of force against Ukraine.

#### DONBAS

341. Legislation and presidential decrees/orders were enacted to plan Russia's acts of aggression in Donbas.
342. The accused persons—Valentina Matviyenko, Sergei Naryshkin, and Dmitry Medvedev—played central roles in the legislative and executive processes by which Russia formalized and institutionalized its acts of aggression against Ukraine in Donbas, in violation of Article 8 *bis* of the Rome Statute.
343. In the years following the occupation of Donbas, the State Duma and Federation Council passed numerous legal instruments extending Russian legal, financial, and administrative systems into the occupied areas. This included authorizations for public service funding, the recognition of documents issued by the DPR and the LPR, and the provision of Russian citizenship to residents of the occupied territories (see paragraph 153). These measures facilitated and entrenched Russia's effective control over parts of Donbas, enabling the long-term occupation and integration of Ukrainian territory under Russian jurisdiction.

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504 Federation Council of the Russian Federation, Resolution No. 48-SF "On the Use of the Armed Forces of the Russian Federation on the Territory of Ukraine," March 1, 2014, cited in [https://hudoc.echr.coe.int/rum#\\_Toc87954862](https://hudoc.echr.coe.int/rum#_Toc87954862)

505 Federal Constitutional Law No. 6-FKZ "On the Admission to the Russian Federation of the Republic of Crimea," and Federal Law No. 36-FZ "On Ratification of the Treaty," adopted March 20, 2014, available in official publication archive at <http://publication.pravo.gov.ru/Document/View/0001201403210013>.

344. On April 24, 2019, Vladimir Putin enacted a decree “On determining for humanitarian purposes categories of individuals who may apply for the citizenship of the Russian Federation via a simplified procedure.”<sup>506</sup> The decree extends Russian citizenship to residents of the DPR and the LPR.
345. On February 15, 2022, the State Duma approved<sup>507</sup> a resolution to recognize the sovereignty of the DPR and the LPR,<sup>508</sup> submitted by the CPRF faction.<sup>509</sup> On the same day, the State Duma sent the resolution to Vladimir Putin for his signature.<sup>510</sup>
346. On February 21, 2022, Vladimir Putin issued an instruction to the Defense Ministry to deploy “peacekeeping” troops to Donbas.<sup>511</sup>
347. On February 21, 2022, the State Duma and Federation Council, under the leadership of Naryshkin’s successor and Matviyenko, adopted legislative acts formally recognizing the so-called Donetsk People’s Republic and Luhansk People’s Republic as independent states.<sup>512</sup> These recognitions—immediately followed by Russia’s armed invasion—formed the legal pretext for Russia’s full-scale aggression and annexation campaign launched on February 24, 2022.
348. On February 22, 2022, Vladimir Putin signed the resolution to recognize the sovereignty of the LPR with the head of the LPR, Leonid Pasechnik.<sup>513</sup> The resolution passed into law on the same day and allowed for the deployment of Russian peacekeeping troops to the LPR.
349. On February 22, 2022, the Federation Council unanimously ratified the resolutions to recognize the sovereignty of the DPR and the LPR.<sup>514</sup> The Federation Council is chaired by Valentina Matviyenko.

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506 Decree of the President of the Russian Federation, No. 183 “On Determining for Humanitarian Purposes Categories of Individuals Who May Apply for the Citizenship of the Russian Federation via a Simplified Procedure,” April 24, 2019, on file.

507 State Duma, “Members of the State Duma Voted for the Draft Appeal to the Russian President for LPR and DPR Recognition,” February 15, 2022, <http://duma.gov.ru/en/news/53431/>.

508 On file.

509 State Duma, “Vyacheslav Volodin: the Council of the State Duma to Consider Draft on Recognition of LPR and DPR Next Week,” January 21, 2022, <http://duma.gov.ru/en/news/53264/>.

510 State Duma, “Vyacheslav Volodin.”

511 Decree of the President of the Russian Federation, No. 71 “On the Recognition of the Donetsk People’s Republic”, February 21, 2022, <http://publication.pravo.gov.ru/Document/View/0001202202220002#print>.

512 President of Russia, “Address by the President of the Russian Federation,” February 21, 2022, Kremlin press release, <http://en.kremlin.ru/events/president/news/67828>

513 Federal Law No. 15-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Donetsk People’s Republic,” February 22, 2022, <http://publication.pravo.gov.ru/Document/View/0001202202220032>; Federal Law No. 16-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance between the Russian Federation and the Lugansk People’s Republic,” February 22, 2022, <http://publication.pravo.gov.ru/Document/View/0001202202220033>.

514 Federal Law No. 15-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance”; Federal Law No. 16-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance.”

350. On September 30, 2022, after “referendums” in the Donetsk, Luhansk, Zaporizhzhia, and Kherson regions, President Putin declared that these regions of Ukraine would be formally incorporated into the Russian Federation and signed “treaties” to that effect.<sup>515</sup>
351. On October 5, 2022, Putin signed legislation annexing four Ukrainian regions: Donetsk, Luhansk, Zaporizhzhia, and Kherson.<sup>516</sup>
352. Through their leadership roles in drafting, adopting, and endorsing legislation that enabled and entrenched the occupation of Donbas, the accused persons directly contributed to the planning and execution of the crime of aggression. Their conduct satisfies the leadership requirement under Article 8 *bis* (1) of the Rome Statute, as they exercised effective control over the political acts that facilitated the unlawful use of force against Ukraine.

#### FEBRUARY 2022 FULL-SCALE INVASION OF UKRAINE

353. Legislation and presidential decrees/orders were enacted to plan Russia’s acts of aggression relating to and following from February 2022 events:
354. On July 2, 2021, Vladimir Putin signed into law Russia’s updated National Security Strategy, which states that Russia considers it lawful to respond to unfriendly actions that pose a threat to Russia’s sovereignty and territorial integrity by taking symmetrical and asymmetrical measures to suppress these actions and prevent their recurrence.<sup>517</sup>
355. On September 13, 2021, the Russian Ministry of Industry and Trade adopted a national technical standard for urgent burial of corpses in wartime and peacetime, to take effect from February 1, 2022.<sup>518</sup> The standard allows for designation as burial sites of areas as large as 40 hectares.<sup>519</sup>
356. On February 22, 2022, the Federation Council passed a resolution granting Vladimir Putin’s request to authorize deployment of Russian armed forces abroad.<sup>520</sup> The Federation Council is chaired by Valentina Matviyenko.

515 Federal Law No. 16-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance, para. 92.

516 Troianovski, “Putin Signs Annexation Laws.”

517 Decree of the President of the Russian Federation, No. 183 “On the National Security Strategy of the Russian Federation,” Article 99, July 2, 2021, <http://ips.pravo.gov.ru:8080/default.aspx?pn=0001202107030001>.

518 Order of the Ministry of Industry and Trade of the Russian Federation, N 950-st “On Approval of the National Standard of the Russian Federation,” September 13, 2021, <https://docs.cntd.ru/document/727930017?marker=64S01J>.

519 National Standard of the Russian Federation, OKS 13.200 “Urgent Burying of Bodies in War and Peace Time—Emergency Disposal of the Dead in Wartime and Peace Time,” February 1, 2022, <https://docs.cntd.ru/document/1200180859#7D20K3>.

520 Decree of the Federation Council of the Federal Assembly of the Russian Federation, No. 35-SF “On the use of the Armed Forces of the Russian Federation Outside the Territory of the Russian Federation,” February 22, 2022, <http://publication.pravo.gov.ru/Document/View/0001202202240001#print>.

357. On February 27, 2022, Vladimir Putin ordered the minister of defense, Sergei Shoigu, and the chief of the general staff, Valery Gerasimov, to transfer the “deterrence forces” of the Russian army to a special mode of combat duty.<sup>521</sup>
358. By the foregoing acts, conduct, and practices, Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov are responsible for the crime of aggression by planning Russia’s acts of aggression.

## Preparation

359. “Preparation” refers to concrete steps taken to realize the plan and can include acts to create the necessary military or economic capacities to commit acts of aggression and political and diplomatic maneuvers.<sup>522</sup> Preparation includes preparing official justification for acts of aggression; making false assurances of peaceful intentions;<sup>523</sup> pressuring the other State by amassing troops;<sup>524</sup> intervening in the internal affairs of the other State;<sup>525</sup> engaging in diplomatic maneuvers to prevent third states from aiding the other State;<sup>526</sup> and engineering incidents as pretexts for military action.<sup>527</sup>

### *The accused persons prepared official justifications for Russia’s acts of aggression in Crimea*

360. On March 3, 2014, Sergei Lavrov addressed the UN Human Rights Council, claiming that there was a danger to the Russian-speaking population in Crimea:

Eastern and southern regions of Ukraine, the Autonomous Republic of Crimea, where millions of Russians live, were outraged by this, because they do not want this scenario to be repeated in their regions. In conditions of threats of violent

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- 521 Kremlin, “Meeting with Sergei Shoigu and Valery Gerasimov,” February 27, 2022, <http://www.kremlin.ru/events/president/news/67876>.
- 522 Florian Jeßberger, “Implementing Kampala: The New Crime of Aggression under the German Code of Crimes against International Law,” *Justice Without Borders*, ed. Martin Böse et al. (Brill, 2018), 190; McDougall, *The Crime of Aggression under the Rome Statute*, 237.
- 523 On the jurisprudence of the tribunals after World War II, Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 66 (judgment against von Ribbentrop, para. 71 (g)).
- 524 On the jurisprudence of the tribunals after World War II, Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 66 (judgment against von Ribbentrop, para. 71 (g)).
- 525 On the jurisprudence of the tribunals after World War II, Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 66 (judgment against Keitel, para. 72 (b)).
- 526 On the jurisprudence of the tribunals after World War II, Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 65 (judgment against Hess, para. 67 (h) (i)), 65 (judgment against von Ribbentrop, para. 71 (e)).
- 527 Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, 86 (judgment against Seishiro Itagaki, para. 341 (a) (g)).

action on behalf of ultranationalists, who endanger the life and legal interests of Russians and the entire Russian-speaking population, self-defence units were created by the people, who had to prevent the attempts at forced occupation of administrative buildings in Crimea and the entry of weapons and ammunition into the peninsula.<sup>528</sup>

361. On March 4, 2014, during a press conference, Vladimir Putin justified Russia's intervention in Crimea as humanitarian aid:

Now about financial aid to Crimea. As you may know, we have decided to organise work in the Russian regions to aid Crimea, which has turned to us for humanitarian support. We will provide it, of course. I cannot say how much, when or how—the Government is working on this, by bringing together the regions bordering on Crimea, by providing additional support to our regions so they could help the people in Crimea. We will do it, of course.<sup>529</sup>

***The accused persons prepared official justifications for Russia's acts of aggression in Donbas***

362. Starting in 2014 and in the following years, President Putin repeatedly suggested that “what is happening in Donbas” “certainly looks like” or “smells like” a genocide.<sup>530</sup>
363. On March 4, 2014, Vladimir Putin publicly declared that Russia reserved the right to use all means to protect “Russian speakers” in Ukraine and that this extended beyond Crimea. He stated that Russia would respond if violence were used against Russian populations in the east, laying the political foundation for intervention in Donbas.<sup>531</sup>
364. Vladimir Putin's speech of February 24, 2022, also sought to justify Russia's acts of aggression as being conducted to protect the DPR and the LPR (collective self-defense).<sup>532</sup>
365. Further official justifications related to Donbas following the February 2022 full-scale invasion are detailed in the following section.

528 Speech by the Russian Foreign Minister, Sergey Lavrov, during the high-level segment of the 25th session of the United Nations Human Rights Council, Geneva, March 3, 2014, [https://mid.ru/fr/foreign\\_policy/onu/1676027/?lang=en](https://mid.ru/fr/foreign_policy/onu/1676027/?lang=en).

529 Kremlin, “Vladimir Putin Answered Journalists' Questions on the Situation in Ukraine,” March 4, 2014, <http://en.kremlin.ru/events/president/news/20366>.

530 See, e.g., Al Jazeera, “Smells of Genocide”; BBC, “Putin Compares Donbas War Zone.”

531 Press Conference of President Putin, March 4, 2014, [Kremlin.ru](http://en.kremlin.ru/events/president/news/20366), transcript available at <http://en.kremlin.ru/events/president/news/20366>; *Ukraine v. Russia (Re Crimea)*, Grand Chamber Judgment of January 25, 2024, para. 93.

532 Appendix, para. 3.

*The accused persons prepared official justifications for Russia's acts of aggression relating to and following from February 2022 events*

366. Vladimir Putin's speech of February 24, 2022, sought to justify Russia's most recent acts of aggression as being conducted in self-defense to protect its own territory or Russian nationals (individual self-defense), and to protect the DPR and the LPR (collective self-defense, as described in the preceding section).<sup>533</sup> In advance of Russia's most recent acts of aggression, preparations were made to establish these official justifications.
367. In its admissibility decision, the ECtHR stated Vladimir Putin openly promoted the neo-imperialist "Novorossiia" ideology, referring to a historical region of the Russian Empire in southern Ukraine, as a justification for Russia's military operations. The ECtHR found that he repeatedly voiced plans to reconstitute this historical entity under Russian control and translated that ideology into concrete policy through the 2022 invasion itself.<sup>534</sup>
368. In preparation for the individual self-defense justification, a number of statements were made before and after the initiation of the invasion of Ukraine to establish a record of Russia's alleged perception of a threat from Ukraine, or to otherwise insinuate that Russia believes that such a threat exists. These statements and insinuations refer to the alleged threat posed to Russia by the Ukrainian armed forces and by the NATO presence in Ukraine:
369. On April 12, 2021, in a media interview, Sergei Lavrov claimed that the U.S. was engaging "especially assertively" in military activity in Ukraine, and that this action was accompanied by aggressive rhetoric from the U.S. He continued that it was unclear what the United States was doing in Ukraine, with its ships and military personnel frequently in the country.<sup>535</sup>
370. On April 14, 2021, in a meeting in Sevastopol on ensuring Russia's "national security" in Crimea, Nikolai Patrushev stated that, with the support of the United States, Ukraine was increasingly planning to establish control over Crimea by force, and that Ukraine's new military security strategy specifically identified Russia as a military enemy.<sup>536</sup>

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533 Appendix, para. 3.

534 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 183.

535 TASS, "Lavrov: Russia Warns All Countries against Fueling Militaristic Sentiments in Kyiv," April 12, 2021, <https://tass.ru/politika/11123257>.

536 TASS, "Patrushev: Kyiv Can Organize Provocations to Start Military Operations against Crimea," April 14, 2021, <https://tass.ru/politika/11146349>.

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371. On July 12, 2021, Vladimir Putin published an article titled “On the Historical Unity of Russians and Ukrainians,” claiming that Ukraine was “aggressive towards Russia,” as evinced by supposed discrimination against Russian speakers in Ukraine, termed Russophobia.<sup>537</sup> In this article, Vladimir Putin also purported that Ukraine was indulging in aggressive rhetoric and militarizing, and that Ukraine’s authorities, security services, and armed forces were under direct external control.
372. On August 19, 2021, in a media interview, Nikolai Patrushev remarked that the United States was pumping Ukraine with weapons, and that Ukraine served foreign interests as it sought to enter NATO.<sup>538</sup>
373. On November 18, 2021, in a speech at an expanded meeting of Russia’s Foreign Ministry Board, Vladimir Putin identified “Ukraine’s internal crisis” as a pressing issue for Russia, with Ukraine’s failure to fulfil its obligations under the Minsk Agreements preventing resolution of the issue. He continued that the West was exacerbating the situation by “supplying Kiev with modern lethal weapons, conducting provocative military exercises in the Black Sea and other regions close to our borders,” and that NATO’s expansion to Russia’s borders could be used offensively against Russia.<sup>539</sup>
374. On November 23, 2021, in a media interview, Nikolai Patrushev asserted that Ukraine was a protectorate of the West, and that the situation in Ukraine could flare up at any minute.<sup>540</sup>
375. On November 30, 2021, in a media interview, Sergei Lavrov asserted that Western countries had been provoking Ukraine into taking anti-Russian actions for many years, and that the West was currently inciting Ukraine to use force in Donbas, thereby posing a direct threat to Russian security.<sup>541</sup>
376. On December 7, 2021, in a meeting with the president of the United States of America, Joseph Biden, Vladimir Putin expressed concern that NATO was “undertaking dangerous attempts to gain a foothold on Ukrainian territory, and building up its military capabilities along the Russian border.”<sup>542</sup>

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537 Putin, “Article by Vladimir Putin.”

538 Alexey Zabrodin, “Secretary of the Security Council of the Russian Federation Nikolai Patrushev—on the Results of U.S. Interference in the Internal Affairs of Other Countries and the Affected Afghans,” *Izvestiya*, August 19, 2021, <https://iz.ru/1209165/aleksei-zabrodin/pokhozhaia-situatciia-ozhidaet-i-storonnikov-amerikanskogo-vybora-na-ukraine>.

539 Kremlin, “Expanded Meeting of the Foreign Ministry Board,” November 18, 2021, <http://en.kremlin.ru/events/president/news/67123>.

540 Vitaly Tseplyaev, “The West and its Hostages: Nikolai Patrushev on the Causes of the Crisis with Migrants,” *AiF*, November 23, 2021, [https://aif.ru/politics/world/zapad\\_i\\_ego\\_zalozhniki\\_nikolay\\_patrushev\\_o\\_prichinah\\_krizisa\\_s\\_migrantami](https://aif.ru/politics/world/zapad_i_ego_zalozhniki_nikolay_patrushev_o_prichinah_krizisa_s_migrantami)

541 TASS, “Lavrov Said that the West Has Been Provoking Ukraine for Anti-Russian Actions for Several Years,” November 30, 2021, <https://tass.ru/politika/13066903>.

542 Kremlin, “Meeting with U.S. President Joseph Biden,” December 7, 2021, <http://en.kremlin.ru/events/president/news/67315>.

377. On December 9, 2021, Vladimir Putin declared, at a meeting of the Council for Civil Society and Human Rights, that Russophobia is the first step toward genocide.<sup>543</sup>
378. On December 9, 2021, the spokesperson for the Russian Ministry of Foreign Affairs, Maria Zakharova, reportedly accused Ukraine of moving heavy artillery toward the line of contact in Donbas, and of failing to engage in a peace process.<sup>544</sup>
379. On December 21, 2021, in an expanded meeting of the Russian Defense Ministry Board, Sergei Shoigu made a number of claims regarding alleged the U.S. and NATO military presence in Ukraine, particularly in Donetsk, and military drills targeting Russia.<sup>545</sup> Among these claims, Sergei Shoigu stated that the U.S. private military companies were preparing a provocation with chemical components in eastern Ukraine and that about 120 representatives of U.S. private military companies were already in Ukraine. At this meeting, Vladimir Putin also reportedly stated that what the U.S. was doing in Ukraine was at Russia's border, and that Russia simply had nowhere to retreat. He continued that the U.S. would put "hypersonic" weapons in Ukraine and thereby arm and push extremists from Ukraine into Russia, perhaps by attacking Crimea.<sup>546</sup> The meeting was attended by Vladimir Putin, Sergei Shoigu, Valery Gerasimov,<sup>547</sup> Valentina Matviyenko,<sup>548</sup> and unnamed "representatives of bodies of state power and public organizations" and "command officials from military districts."<sup>549</sup>
380. On December 27, 2021, in a media interview, Sergei Lavrov opined that the West may be seeking to fuel militaristic sentiments and begin a war in Ukraine, planning to blame the war on Russia and thus impose sanctions.<sup>550</sup>
381. On December 30, 2021, in a media interview, Valentina Matviyenko assured Russian citizens, in relation to the situation in Ukraine, that Vladimir Putin, the Russian government, and the Federal Assembly were taking exhaustive measures to ensure Russia's national security and preserve its sovereignty.<sup>551</sup>

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- 543 Kremlin, "Meeting of Council for Civil Society and Human Rights," December 9, 2021, <http://en.kremlin.ru/events/president/news/67331>.
- 544 TASS, "Kiev Sending More Troops to Donbass Conflict Area—MFA," December 9, 2021, <https://tass.com/world/1373263>.
- 545 Kremlin, "Expanded Meeting of the Defence Ministry Board," December 21, 2021, <http://en.kremlin.ru/events/president/news/67402>.
- 546 TASS, "Russia Simply Has 'Nowhere to Retreat' if U.S. Weapons Appear in Ukraine—Putin," December 21, 2021, <https://tass.com/politics/1378741>.
- 547 Kremlin, "Expanded Meeting of the Defence Ministry Board—Photos," December 21, 2021, <http://en.kremlin.ru/events/president/transcripts/67402/photos>.
- 548 Federation Council, "V. Matvienko Took Part in the Expanded Meeting of the Board of the Ministry of Defense of Russia," December 21, 2021, <http://council.gov.ru/events/chairman/132083/>.
- 549 Kremlin, "Expanded Meeting of the Defence Ministry Board."
- 550 Sakina Nurieva, "Lavrov Assessed the Likelihood of War in Ukraine," *Gazeta*, December 27, 2021, <https://www.gazeta.ru/politics/news/2021/12/27/17069797.shtml>.
- 551 RIA, "Matvienko Commented on the Situation around Ukraine," December 30, 2021, <https://ria.ru/20211230/matvienko-1766175446.html>.

382. On January 9, 2022, Sergei Shoigu gave an interview stating that there was a big war on information that Russia had no right to lose.<sup>552</sup>
383. On January 20, 2022, in a tweet, the Russian Ministry of Foreign Affairs called on the West to “stop [its] aggressive anti-Russian info campaign, stop contributing to Ukraine’s militarization, [and] encourage Kiev to implement the #MinskAgreements.”<sup>553</sup>
384. On January 22, 2022, in a tweet, the Russian Ministry of Foreign Affairs accused the United States of encouraging Ukraine’s aggressive actions in Donbas by sending weapons.<sup>554</sup>
385. On February 4, 2022, in a tweet, the Russian Ministry of Foreign Affairs accused the United States and NATO of hampering the search for a peaceful solution to the conflict in Donbas by continuing to deliver military aid to Ukraine.<sup>555</sup>
386. In early February 2022, Sergei Shoigu met with the president of Belarus, Alexander Lukashenko, and promised to hold military drills and set modern weapons on Belarus’s western borders to ensure protection and resist the “destructive line of the West.”<sup>556</sup>
387. On February 15, 2022, at a press conference, Vladimir Putin stated that the U.S. and NATO responses to Russian proposals on security guarantees did not meet Russian requirements.<sup>557</sup>
388. On February 16, 2022, in an interview published on the Federation Council’s website, Valentina Matviyenko claimed that NATO had begun the military development of Ukrainian territory, pumping its armed forces with military equipment, ammunition and weapons, thereby creating “hotbeds of instability around Russian borders.” She continued that the goal of the West was to restrain Russia and stop its development, and therefore the West had entrusted Ukraine with the mission of provoking an armed conflict with Russia.<sup>558</sup>

552 TVVezda, “‘This Is a Big War’: Shoigu Announced the Importance of Victory in the ‘Battle for Information,’” January 9, 2022, <https://tvzvezda.ru/news/202219846-htwov.html>.

553 MFA Russia, tweet, January 20, 2022, [https://twitter.com/mfa\\_russia/status/1484078942201991170](https://twitter.com/mfa_russia/status/1484078942201991170).

554 MFA Russia, tweet, January 22, 2022, [https://twitter.com/mfa\\_russia/status/1484965492074987524](https://twitter.com/mfa_russia/status/1484965492074987524).

555 MFA Russia, tweet, February 4, 2022, [https://twitter.com/mfa\\_russia/status/1489537795437830144](https://twitter.com/mfa_russia/status/1489537795437830144).

556 RT News, “Russia Will Supply Belarus with Modern Weapons to Strengthen the Borders,” February 9, 2022, <https://russian.rt.com/ussr/news/959727-rossiya-dast-belorussiya-oruzhie>; RT News, “Shoigu: Moscow Highly Appreciates the Determination of Minsk in Confronting the ‘Destructive Line of the West,’” February 3, 2022, <https://russian.rt.com/ussr/news/956815-shoigu-podderzhka-rossiya-belorussiya>.

557 Kremlin, “News Conference Following Russian-German Talks,” February 15, 2022, <http://en.kremlin.ru/events/president/news/67774>.

558 Federation Council, “Russian Society Does Not Want War Either with Ukraine or with Anyone Else,” February 16, 2022, <http://council.gov.ru/events/news/133299/>.

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389. On February 16, 2022, in a tweet, the Russian Ministry of Foreign Affairs called on everyone to “stop whipping up hysteria,” remarking that peace in the region was threatened by Western steps to build NATO forces on the Russian border and to supply weapons to Ukraine.<sup>559</sup>
390. On February 18, 2022, the Russian Security Council held a meeting focusing on the “growing tensions that are provoked by external forces” in relation to Ukraine.<sup>560</sup> The meeting was attended by Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, and Sergei Lavrov.<sup>561</sup>
391. On February 18, 2022, the President of Belarus, Alexander Lukashenko, explained in a joint press conference with Vladimir Putin that the “growing military threat” on Russian and Belarussian borders with Ukraine and the “pumping of Ukraine with weapons” had compelled Belarus and Russia to look for adequate means of repelling a potential attack on their borders.<sup>562</sup>
392. On February 24, 2022, in a media interview, Valentina Matviyenko opined that Russians who opposed the “special operation” in Ukraine ought to worry about Russia’s security rather than momentary difficulties they faced.<sup>563</sup>
393. On February 24, 2022, as reported on the Federation Council’s website, Valentina Matviyenko claimed that Ukraine’s supposed provocations were “not only a security issue for Lugansk and Donetsk,” but also for Russia itself, and that “a state hostile to Russia has been formed.”<sup>564</sup>
394. On February 25, 2022, in a media interview, Sergei Naryshkin stated that Russia was forced to defend itself and its allies through the special operation in Ukraine.<sup>565</sup>
395. On February 25, 2022, in a speech at the Seventh Inter-Parliamentary Forum in Tajikistan, Valentina Matviyenko claimed that Russia had persistently called for a diplomatic solution to the “intra-Ukrainian conflict,” and that it was the Ukrainian authorities, with Western support, who chose otherwise by intensifying military

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559 MFA Russia, tweet, February 16, 2022, [https://twitter.com/mfa\\_russia/status/1493958728617451523](https://twitter.com/mfa_russia/status/1493958728617451523).

560 Kremlin, “Meeting with Permanent Members of the Security Council,” February 18, 2022.

561 Kremlin, “Meeting with Permanent Members of the Security Council,” February 18, 2022.

562 Kremlin, “News Conference Following Russian-Belarussian Talks,” February 18, 2022, <http://en.kremlin.ru/events/president/news/67809>.

563 RIA, “Matvienko Criticized the Opponents of the Military Operation in Ukraine,” February 24, 2022, <https://ria.ru/20220224/matvienko-1774824293.html>.

564 Federation Council, “V. Matvienko: We Could Not Leave people for Extermination,” February 24, 2022, <http://council.gov.ru/events/chairman/133529/>.

565 Julie Coleman, “Spy Chief Humiliated by Putin on Russian TV for Stammering Releases New Video Echoing Putin’s War Rhetoric,” February 25, 2022, <https://www.businessinsider.com/spy-chief-putin-humiliated-releases-video-echoing-putins-war-rhetoric-2022-2>.

operations, shelling, and terrorist attacks. She continued that these conditions left Russia with no choice but to recognize the independence of the DPR and the LPR, and conduct the “special military operation” to enforce peace and demilitarize Ukraine.<sup>566</sup>

396. On February 27, 2022, Vladimir Putin claimed that the West was taking unfriendly actions against Russia, not only economically through sanctions, but also in the form of top officials of NATO member states making “aggressive statements” against Russia. In response to this alleged aggression, he ordered the minister of defense, Sergei Shoigu, and the chief of the general staff, Valery Gerasimov, to transfer the “deterrence forces” of the Russian army to a special mode of combat duty.<sup>567</sup>
397. On March 1, 2022, Sergei Lavrov appeared before the UN Human Rights Council, where he claimed that Ukraine had “made territorial claims against the Russian Federation, threatened to use force and acquire a military nuclear capability.”<sup>568</sup> Further, he stated that Russia had decided to launch its “special military operation” to protect the rights of Russian speakers and citizens of Ukraine and demilitarize and denazify Ukraine.<sup>569</sup>
398. On March 3, 2022, the SVR published a press statement by its director, Sergei Naryshkin, asserting that the U.S. and its allies were seeking to lower the iron curtain on Russia under the pretense of protecting the EU security and Ukrainian sovereignty. He further stated that Ukraine had regained technical capability to build nuclear weapons much larger than those of North Korea or Iran, and that the SVR’s intelligence indicated that Ukraine was working toward further development of nuclear weapons with the U.S.’s knowledge.<sup>570</sup>
399. On March 4, 2022, the SVR, headed by Sergei Naryshkin, published a press statement disclosing information on alleged training of ISIS prisoners at a U.S. military base in Syria for combat in Donbas, and the use of Poland as a “logistics hub” by NATO members. The statement further asserted that the “Westerners expect to ‘absorb’ the remnants of the Ukrainian special services and directly direct their hostile activities against Russia.”<sup>571</sup>

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566 Together-RF, “We Were Simply Left with No Other Choice: Matvienko on the Military Operation in Ukraine,” February 25, 2022, <https://www.youtube.com/watch?v=2zZ73wc4Dq0>.

567 Kremlin, “Meeting with Sergei Shoigu and Valery Gerasimov.”

568 “Diplomats Walk Out of Lavrov’s Speech at the UN in Geneva,” New York Times, March 1, 2022, <https://www.nytimes.com/2022/03/01/world/europe/lavrov-speech-un.html>.

569 OHCHR, “On the Second Day of the Human Rights Council’s High-Level Segment.

570 Foreign Intelligence Service of the Russian Federation, “Director of the SVR of Russia Sergey Naryshkin on the Special Military Operation in Ukraine,” March 3, 2022, <http://www.svr.gov.ru/smi/2022/03/direktor-svr-rossii-sergey-naryshkin-o-spetsialnoy-voennoy-operatsii-na-ukraine-.htm>.

571 Foreign Intelligence Service of the Russian Federation, “Intelligence Agencies of NATO Countries Are Transferring Foreign Terrorist Fighters to Ukraine,” March 4, 2022, <http://www.svr.gov.ru/smi/2022/03/spetssluzhby-stran-nato-perebrasyvayut-inostrannykh-terroristov-boevikov-na-ukrainu.htm>.

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400. On March 4, 2022, in her speech opening the 520th Session of the Federation Council, Valentina Matviyenko claimed that Russia’s “special targeted military operation” in Ukraine aimed to demilitarize and denazify Ukraine, to ensure that there was no military threat to Russia from Ukrainian territory. She continued that the Russian armed forces were fighting for Russia, its security, and its citizens.<sup>572</sup>
401. On March 6, 2022, in a tweet, the Russian Ministry of Foreign Affairs claimed that, in the course of Russia’s “special military operation” in Ukraine, they had discovered evidence of an emergency clean-up of Ukraine’s military-biological program, financed by the U.S. Department of Defense.<sup>573</sup>
402. On March 9, 2022, in a tweet, the Russian Ministry of Foreign Affairs sought to confirm its claim that, in the course of Russia’s “special military operation” in Ukraine, they had discovered evidence of a military-biological program, implemented by Ukraine and financed by the U.S. Department of Defense.<sup>574</sup>
403. On March 10, 2022, in a press conference, Sergei Lavrov opined that Russia had not attacked Ukraine but was merely acting in response to a direct threat to Russian security.<sup>575</sup>
404. On March 15, 2022, at a meeting on national security in the North Caucasus, Nikolai Patrushev claimed that Ukraine had fallen under the external control of the U.S. following the “coup” in 2014, that the U.S. aimed to turn Ukraine into a state hostile to Russia, and that the U.S. was encouraging and helping Ukraine to create biological and nuclear weapons.<sup>576</sup>
405. On March 16, 2022, in a meeting on socio-economic support for the constituent entities of Russia, Vladimir Putin claimed that Russia had “no alternative for self-defence” and to ensure its security and therefore was forced to begin the “special military operation” in Ukraine. He continued that Russia would “never allow Ukraine to be a bridgehead for aggressive actions against our country.”<sup>577</sup>

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572 Federation Council, “520th Meeting of the Federation Council—Transcript,” March 4, 2022, <http://council.gov.ru/activity/meetings/133659/transcript/>.

573 MFA Russia, tweet, March 6, 2022, [https://twitter.com/mfa\\_russia/status/1500539810418671626](https://twitter.com/mfa_russia/status/1500539810418671626).

574 MFA Russia, tweet, March 9, 2022, [https://twitter.com/mfa\\_russia/status/1501513801614729224](https://twitter.com/mfa_russia/status/1501513801614729224).

575 Euronews, “Lavrov: Russia Doesn’t Plan to Attack Other Countries,” March 10, 2022, <https://www.euronews.com/2022/03/10/lavrov-russia-doesn-t-plan-to-attack-other-countries-and-did-not-attack-ukraine>.

576 Sputnik Azerbaijan, “Abundance of Foreign Consultants in Kyiv Provokes New Threats—Patrushev,” March 15, 2022, <https://web.archive.org/web/20220316062514/https://az.sputniknews.ru/20220315/obilie-inostrannykh-konsultantov-kieva-provotsiruuet-novye-ugrozy---patrushev-440175674.html>.

577 Kremlin, “Meeting on Socioeconomic Support for Regions,” March 16, 2022, <http://en.kremlin.ru/events/president/news/67996>.

406. On March 16, 2022, at an expert council for historical education at the Russian Ministry of Education and Science, Sergei Naryshkin stated that this was a “truly historic moment” for Russia, which was facing attempts at its destruction, disguised by the U.S. and its allies as attempts to protect the sovereignty of Ukraine and European security.<sup>578</sup>
407. On March 16, 2022, in a media interview, Sergei Naryshkin claimed that the decision to conduct a special military operation was aimed at protecting the population of Donbas and protecting Russian security, and that any delay in doing so would have turned into a great tragedy.<sup>579</sup>
408. On April 5, 2022, as reported on the Federation Council’s website, Valentina Matviyenko claimed that the West was trying to hide the truth about provocations against Russia, thereby fostering “Russophobia” and hatred of Russia. She continued that the West had been saturating Ukraine with weapons.<sup>580</sup>
409. In preparation for the individual self-defense justification, steps were also taken to establish a record of Russia’s alleged perception of a threat to Russian citizens in Ukraine from Ukrainian authorities or armed forces:
410. On April 24, 2019, Vladimir Putin enacted a decree “On determining for humanitarian purposes categories of individuals who may apply for the citizenship of the Russian Federation via a simplified procedure.”<sup>581</sup> The decree enabled residents of Donetsk and Luhansk to apply for Russian citizenship, thereby laying the foundation for claims that the situation in Donbas threatened “Russian citizens,” and therefore threatened Russia itself.
411. On February 16, 2022, in an interview published on the Federation Council’s website, Valentina Matviyenko stated that thousands of Russian citizens lived in Donbas, and in the event of an invasion by the Ukrainian armed forces, Russia would do everything necessary to protect those citizens.<sup>582</sup>
412. On February 22, 2022, on the Federation Council’s adoption of a resolution permitting the deployment of Russian armed forces abroad, Valentina Matviyenko declared the decision was aimed at establishing peace, and preventing the continuation of bloodshed and shelling of citizens.<sup>583</sup>

578 Kristina Stashchenko, “Naryshkin: Now the Fate of Russia and Its Future Place in the World Are Being Decided,” *Parliamentskaya Gazeta*, March 16, 2022, <https://www.pnp.ru/social/naryshkin-seychas-reshaetsya-sudba-rossii-i-ee-budushhee-mesto-v-mire.html>.

579 RIA, “Naryshkin: The Decision to Conduct a Special Operation in Ukraine Was Based on an Assessment of the Situation,” March 16, 2022, <https://ria.ru/20220316/spetsoperatsiya-1778390555.html>.

580 Federation Council, “V. Matvienko: Our Servicemen Accurately and Precisely Carry Out the Order to Demilitarize and Denazify Ukraine, Treating the Civilian Population with Care,” April 5, 2022, <http://council.gov.ru/events/chairman/134760/>.

581 On file.

582 Federation Council, “Russian Society Does Not Want War.”

583 Federation Council, “The Federation Council Agreed to the Use of the Armed Forces of the Russian Federation Outside the Territory of the Russian Federation,” February 22, 2022, <http://council.gov.ru/events/chairman/133443/>.

413. On February 22, 2022, on the Federation Council’s adoption of a resolution permitting the deployment of Russian armed forces abroad, Valentina Matviyenko declared the decision was aimed at establishing peace, and preventing the continuation of bloodshed and shelling of citizens.<sup>584</sup>
414. On February 23, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, stated at a UN Security Council meeting that “[t]he goal of this special operation is protection of people who have been victimized and exposed to genocide by the Kiev regime. To ensure this, we will seek . . . criminal prosecution for those who committed numerous heinous crimes against civilians, including citizens of the Russian Federation.”<sup>585</sup>
415. In preparation for the collective self-defense justification, Vladimir Putin enacted a decree on April 24, 2019, allowing residents of the DPR and the LPR to apply for Russian citizenship, as described in paragraphs 154 and 344. Thereafter, a number of statements were made as to the alleged genocide and “Russophobia” in Donbas:
416. On September 21, 2021, in a media interview, Nikolai Patrushev claimed that Ukrainian authorities passed laws that discriminated against the Russian language and indigenous peoples.<sup>586</sup>
417. On December 9, 2021, at a meeting of the Council for Civil Society and Human Rights, Vladimir Putin declared that the “current developments in Donbas . . . are very reminiscent of genocide.”<sup>587</sup>
418. On January 18, 2022, in a media interview at an exhibition titled “Violations of Human Rights in Ukraine (2017–2020),” Sergei Naryshkin claimed that a “real civil war was unleashed by the Ukrainian elite,” resulting in the deaths of civilians in Donbas for the past seven years. He continued that the killings were conducted by persons “inspired by the image of Ukraine as anti-Russia.”<sup>588</sup>
419. On February 15, 2022, at a press conference, Vladimir Putin asserted that there was an ongoing genocide in Donbas, and that Ukraine was systematically violating human rights in Donbas and endorsing discrimination against Russian speakers at the legislative level.<sup>589</sup>

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584 Federation Council, “The Federation Council Agreed.”

585 Permanent Representative of Russia to the UN, Statement and Reply at UNSC Briefing on Ukraine, February 23, 2022, <https://russiaun.ru/en/news/230222un>.

586 Vitaly Tseplyaev, “Chaos Chain Reaction: Nikolai Patrushev on Alliances and Values Alien to Russia,” AiF, September 21, 2021, [https://aif.ru/politics/russia/cepnyaya\\_reakciya\\_haosa\\_nikolay\\_patrushev\\_o\\_chuzhdyh\\_rossii\\_soyuzah\\_i\\_cennostyah](https://aif.ru/politics/russia/cepnyaya_reakciya_haosa_nikolay_patrushev_o_chuzhdyh_rossii_soyuzah_i_cennostyah).

587 Kremlin, “Meeting of Council for Civil Society and Human Rights.”

588 1tv, “Head of the Foreign Intelligence Service and the Russian Historical Society Sergey Naryshkin Spoke at the Opening of the Exhibition ‘Violation of Human Rights in Ukraine,’” January 18, 2022, [https://www.1tv.ru/news/2022-01-18/419647-glava\\_svr\\_i\\_rossiyskogo\\_istoricheskogo\\_obschestva\\_sergey\\_naryshkin\\_vystupil\\_na\\_otkrytii\\_vystavki\\_naruszenie\\_prav\\_cheloveka\\_na\\_ukraine](https://www.1tv.ru/news/2022-01-18/419647-glava_svr_i_rossiyskogo_istoricheskogo_obschestva_sergey_naryshkin_vystupil_na_otkrytii_vystavki_naruszenie_prav_cheloveka_na_ukraine).

589 Kremlin, “News Conference Following Russian-German Talks.”

420. On February 18, 2022, Chairman of the State Duma Vyacheslav Volodin stated that the West was ignoring the “genocide” in Donbas.<sup>590</sup>
421. On February 23, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, stated at a UN Security Council meeting that Ukraine “has turned into ‘Anti-Russia’ and raised its fight against the Russian language and everything Russian to the level of state policy. . . . All those who disagree with such policies were persecuted, subjected to repressions, legal prosecution and violence.”<sup>591</sup> Nebenzia also referred to the situation in Donbas as a “flagrant genocide and violation of the main human right—the right to life.”<sup>592</sup>
422. In preparation for the collective self-defense justification, allegations were also raised as to Ukraine’s intention to violate the Minsk Agreements, and the actual or threatened use of force in Donbas by the armed forces of Ukraine and/or NATO members:
423. On July 12, 2021, Vladimir Putin published an article titled “On the Historical Unity of Russians and Ukrainians,” claiming that Ukraine regularly declared its “full adherence” to the Minsk Agreements, but did not intend to seriously implement the same, instead arranging “bloody provocations” in Donbas.<sup>593</sup>
424. On November 27, 2021, in a media interview, Sergei Naryshkin claimed that the U.S. was seeking to push Ukraine to attack Donbas, and that this motivation belied allegations that Russia was preparing to invade Ukraine.<sup>594</sup>
425. On November 30, 2021, in a media interview with the state news outlet *Rossiyskaya Gazeta*, Nikolai Patrushev claimed that Ukraine had increased its military spending, provoked tension in its eastern region, and regularly bombarded the DPR and the LPR in violation of the Minsk Accords.<sup>595</sup>
426. On December 7, 2021, in a meeting with the U.S. president, Joseph Biden, Vladimir Putin “shared specific examples to illustrate the destructive nature of Kyiv’s policy to dismantle” the Minsk Agreements and expressed serious concern about Kyiv’s “provocative actions against Donbas.”<sup>596</sup>

590 State Duma, “Vyacheslav Volodin Blamed Western States for Using Double Standards in Situation with Genocide in Ukraine,” February 18, 2022, <http://duma.gov.ru/en/news/53483/>.

591 Permanent Representative of Russia to the UN, Statement at UNGA Under Agenda Item “The Situation in the Temporarily Occupied Territories of Ukraine,” February 23, 2022, <https://russiaun.ru/en/news/230222ga>.

592 Permanent Representative of Russia to the UN, Statement at UNGA Under Agenda Item “The Situation in the Temporarily Occupied Territories of Ukraine,” February 23, 2022.

593 Putin, “Article by Vladimir Putin.”

594 Interfax, “Naryshkin Called the Purpose of the Rumors about the Allegedly Impending Russian Invasion of Ukraine,” November 27, 2021, <https://www.interfax.ru/world/805305>.

595 TASS, “Russia’s Security Chief Sees no Unsubstantiated Troop Movements Near Border with Ukraine,” November 30, 2021, [https://tass.com/politics/1368809?utm\\_source=google.com&utm\\_medium=organic&utm\\_campaign=google.com&utm\\_referrer=google.com](https://tass.com/politics/1368809?utm_source=google.com&utm_medium=organic&utm_campaign=google.com&utm_referrer=google.com).

596 Kremlin, “Meeting with U.S. President Joseph Biden.”

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427. On December 21, 2021, at an expanded meeting of the Russian Defense Ministry Board, Sergei Shoigu claimed that the Ukrainian military was shelling civilian neighborhoods in Donbas.<sup>597</sup> At this meeting, Sergei Shoigu also made a number of claims regarding alleged U.S. and NATO military presence in Ukraine, particularly in Donetsk, and military drills targeting Russia. The meeting was attended by Vladimir Putin, Sergei Shoigu, Valery Gerasimov,<sup>598</sup> Valentina Matviyenko,<sup>599</sup> and unnamed “representatives of bodies of state power and public organizations” and “command officials from military districts.”<sup>600</sup>
428. On December 27, 2021, in a media interview, Valentina Matviyenko claimed that Ukraine was preparing for the military seizure of Donbas.<sup>601</sup>
429. On January 18, 2022, Chairman of the State Duma Vyacheslav Volodin claimed that NATO was aiming to occupy Ukraine, constituting a matter of security for Russian citizens.<sup>602</sup> In this statement, Volodin also asserted that the State Duma was tasked with preventing a “terrible tragedy” in Donbas and Russia was ready to react.<sup>603</sup>
430. On January 21, 2022, in a tweet, the Russian Ministry of Foreign Affairs decried the alleged killing of thousands of civilians in eastern Ukraine by the Ukrainian authorities.<sup>604</sup>
431. On January 26, 2022, in her speech opening the 516th Session of the Federation Council, Valentina Matviyenko claimed that the Ukrainian government was planning various provocations and the use of force in Donetsk and Lugansk.<sup>605</sup>
432. On February 9, 2022, in a tweet, the Russian Ministry of Foreign Affairs accused Ukrainian authorities of sabotaging their obligations under the Minsk Agreements “under the passive eye of the West.”<sup>606</sup>

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597 Kremlin, “Expanded Meeting of the Defence Ministry Board.”

598 Kremlin, “Expanded Meeting of the Defence Ministry Board—Photos.”

599 Federation Council, “V. Matvienko Took Part in the Expanded Meeting.”

600 Kremlin, “Expanded Meeting of the Defence Ministry Board.”

601 RIA, “Ukraine Was Preparing for the Military Seizure of Donbass, Said Matviyenko,” December 27, 2021, <https://ria.ru/20211227/ukraina-1765629914.html>.

602 State Duma, “Chairman of the State Duma: NATO Aims to Occupy Ukraine,” January 18, 2022, <http://duma.gov.ru/en/news/53231/>.

603 State Duma, “Chairman of the State Duma: NATO Aims to Occupy Ukraine.”

604 MFA Russia, tweet, January 21, 2022, [https://twitter.com/mfa\\_russia/status/1484427420727971842](https://twitter.com/mfa_russia/status/1484427420727971842).

605 Federation Council, “516th Meeting of the Federation Council—Transcript,” January 26, 2022, <http://council.gov.ru/activity/meetings/132817/transcript/>.

606 MFA Russia, tweet, February 9, 2022, [https://twitter.com/mfa\\_russia/status/1491421159854080002](https://twitter.com/mfa_russia/status/1491421159854080002).

433. On February 10, 2022, in a media interview, Sergei Naryshkin stated that the Ukrainian Security Service and Ukrainian armed forces were preparing provocations at the contact line in Donbas, with military equipment and ammunition being transported in large quantities from the U.S., Europe, and Canada.<sup>607</sup>
434. On February 10, 2022, in a media interview, Sergei Naryshkin asserted that the main threat for Ukraine was the internal armed conflict with the DPR and the LPR.<sup>608</sup>
435. On February 15, 2022, at a press conference, Vladimir Putin stated that Ukraine was refusing to abide by the Minsk Agreements and 2015 arrangements.<sup>609</sup>
436. On February 18, 2022, the head of the DPR, Denis Pushilin, posted a video online and on Telegram claiming that his forces had observed an increase in the number of Ukrainian military personnel and weapons along the line of contact, and that the president of Ukraine, Volodymyr Zelensky, would soon be ordering his military to invade Donbas, thereby necessitating “emergency” evacuations from the DPR.<sup>610</sup> The head of the LPR, Leonid Pasechnik, posted a similar video later on the same day.<sup>611</sup>
437. On February 18, 2022, Chairman of the State Duma Vyacheslav Volodin stated that Ukraine was attempting to escalate conflict in violation of the Minsk Agreements by starting mortar attacks in Donbas.<sup>612</sup>
438. On February 18, 2022, in a joint press conference with the president of Belarus, Alexander Lukashenko, Vladimir Putin noted Ukraine’s noncompliance with the Minsk Agreements, including in particular its strong opposition to direct dialogue with Donetsk and Luhansk, and the alleged worsening situation in Donbas.<sup>613</sup>
439. On February 19, 2022, Chairman of the State Duma Vyacheslav Volodin claimed that the president of Ukraine, Volodymyr Zelensky, was instigating the beginning of a big war, with Ukrainian threats of full-scale military operations prompting citizens in Donbas to evacuate.<sup>614</sup>

607 TASS, “Ukrainian Intelligence, Military Prepare Provocations in Donbas—Intelligence Head,” February 10, 2022, [https://tass.com/world/1401167?utm\\_source=google.com&utm\\_medium=organic&utm\\_campaign=google.com&utm\\_referrer=google.com](https://tass.com/world/1401167?utm_source=google.com&utm_medium=organic&utm_campaign=google.com&utm_referrer=google.com).

608 Ileana Ferrer Fonte, “Intelligence Director Denies Russia’s Plans against Ukraine,” Prensa Latina, February 10, 2022, <https://www.plenglish.com/news/2022/02/10/intelligence-director-denies-russias-plans-against-ukraine/>.

609 Kremlin, “News Conference Following Russian-German Talks.”

610 The Donetsk People’s Republic, “Emergency Appeal of the Head of the DPR Denis Pushilin in Connection with the Sharp Aggravation of the Military Situation,” February 18, 2022, <https://denis-pushilin.ru/news/ekstrennoe-obrashhenie-glavy-dnr-denisa-pushilina-v-svyazi-s-rezkim-obostreniem-voennoj-situatsii/>.

611 Telegram channel available here: <https://t.me/pushilindenis/1999>.

612 State Duma, “Vyacheslav Volodin Blamed Western States.”

613 Kremlin, “News Conference Following Russian-Belarussian Talks.”

614 State Duma, “Vyacheslav Volodin: Zelensky Is Instigating the Beginning of a Big War,” February 19, 2022, <http://duma.gov.ru/en/news/53493/>.

440. On February 20, 2022, in a telephone conversation with the president of France, Emmanuel Macron, Vladimir Putin claimed that “provocations from Ukrainian militants were the reason for the escalation” along the contact line in Donbas, with the modern weapons and ammunition being sent to Ukraine by NATO members allegedly “encouraging Kiev to pursue a military solution to the Donbas problem” and thereby forcing civilians in Donetsk and Luhansk to flee to Russia.<sup>615</sup>
441. On or about February 21, 2022,<sup>616</sup> the Russian Security Council held an extraordinary meeting on the situation in Donbas, as described in paragraph 331. At the meeting, the head of the FSB, Alexander Bortnikov, alleged that a skirmish occurred earlier that day, with Ukrainian forces crossing the border into Russian territory.<sup>617</sup> At this meeting, Sergei Shoigu claimed that there had been more than 107 heavy weapons attacks by Ukraine in Donetsk and Luhansk, that the city of Donetsk was out of water, that two-thirds of Luhansk was out of gas, that those who stayed in the region were under constant attack, and that 59,000 Ukrainian troops were at the borders of Luhansk and Donetsk.<sup>618</sup> Sergei Shoigu also drew the Security Council’s attention to President of Ukraine Volodymyr Zelensky’s statement that he would like to make Ukraine a nuclear country again, warning that Ukraine’s capabilities could exceed those of Iran and North Korea. Nikolai Patrushev further remarked that the U.S. was responsible for the events in Donbas, and that Russia was obliged to support the DPR and the LPR. The meeting was attended by Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, and Sergei Lavrov.
442. On February 23, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, made a statement at a UN Security Council meeting claiming that, instead of implementing the Minsk Agreements, Ukraine was “proceeding with bombardments of residential quarters and sabotage activities. . . . Elderly people and children hide from shells in basements. Refugee count—I stress that people are seeking refuge in Russia, and not Ukraine—stands at dozens of thousands these past days, most specifically—96 thousand people as of now.”<sup>619</sup> Nebenzia also claimed that “[b]ombardments of residential quarters of the two republics [the DPR and the LPR] have not stopped.”

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615 Kremlin, “Telephone Conversation with President of France Emmanuel Macron,” February 20, 2022, <http://en.kremlin.ru/events/president/news/67818>.

616 There is reason to believe that this meeting was staged, with Russian independent network TV Rain observing that Russian Defense Minister Sergei Shoigu’s watch displayed a time five hours earlier than the purported “live” meeting that was aired. See Walker, “Putin’s Absurd, Angry Spectacle”; Lawler, “Putin Orders Russian ‘Peacekeeping Operations.’”

617 Kremlin, “Security Council Meeting,” February 21, 2022, <http://en.kremlin.ru/events/president/news/67825> video available at <http://kremlin.ru/events/president/news/67825>.

618 Kremlin, “Security Council Meeting,” February 21, 2022.

619 Permanent Representative of Russia to the UN, Statement at UNGA Under Agenda Item “The Situation in the Temporarily Occupied Territories of Ukraine,” February 23, 2022.

443. In preparation for the collective self-defense justification, steps were taken to recognize the sovereignty of the DPR and the LPR, purportedly in response to the threat from Ukraine:
444. On January 21, 2022, leader of the CPRF faction and member of the State Duma Gennady Zyuganov submitted to the State Duma a draft on recognition of the sovereignty of the DPR and the LPR, purportedly raised in order to protect the people living there from “external threats and the genocidal policy implementation.”<sup>620</sup>
445. On January 21, 2022, Chairman of the State Duma Vyacheslav Volodin announced that the State Duma would consider the draft on recognition of the DPR and the LPR in an attempt to find solutions to ensure the safety of Russian citizens there.<sup>621</sup>
446. On January 26, 2022, leader of the CPRF faction and member of the State Duma Gennady Zyuganov made a statement as to the importance of protecting the supposed interests of Russian citizens living in Donetsk and Luhansk and claimed that Russia was “obliged to defend the Russian world.”<sup>622</sup>
447. On February 15, 2022, the State Duma voted in favor of sending the resolution on recognition of the sovereignty of the DPR and the LPR to President Putin for approval.<sup>623</sup>
448. On or about February 21, 2022,<sup>624</sup> the Russian Security Council held an extraordinary meeting to discuss the situation in Donbas,<sup>625</sup> as described in paragraph 331. At this meeting, members of the Security Council agreed on the recognition of the DPR and the LPR as independent states.
449. On February 21, 2022, the head of the DPR, Denis Pushilin, made a request for Vladimir Putin to recognize the DPR. The request was aired on Russian television.<sup>626</sup> The head of the LPR, Leonid Pasechnik, made a similar request for the LPR on the same day.<sup>627</sup>

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620 State Duma, “Vyacheslav Volodin”

621 State Duma, “Vyacheslav Volodin.”

622 State Duma, “Remarks by Leaders and Representatives of the State Duma Factions on Report of Foreign Minister Sergey Lavrov,” January 26, 2022, <http://duma.gov.ru/en/news/53309/>.

623 State Duma, “Members of the State Duma Voted for the Draft Appeal.”

624 There is reason to believe that this meeting was staged, with Russian independent network TV Rain observing that Russian Defense Minister Sergei Shoigu’s watch displayed a time five hours earlier than the purported “live” meeting that was aired. See Walker, “Putin’s Absurd, Angry Spectacle”; Lawler, “Putin Orders Russian ‘Peacekeeping Operations.’”

625 Kremlin, “Security Council Meeting,” February 21, 2022.

626 *Moscow Times*, “Putin Says Considering Ukraine Separatists’ Independence Request,” February 21, 2022, <https://www.themoscowtimes.com/2022/02/21/putin-says-considering-ukraine-separatists-independence-request-a76496>. For an analysis on Russia’s effective control over the DPR and the LPR, and therefore of such “requests” for Russian assistance, see the forthcoming report by GRC.

627 Adomeit et al., “Russia Recognizes the Independent Statehood of the so-called ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’: Implications,” Marshall Center, February 2022, <https://www.marshallcenter.org/de/node/2496>.

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450. On February 22, 2022, President Putin and the head of the DPR, Denis Pushilin, signed the resolution on recognition of the sovereignty of the DPR.<sup>628</sup> The resolution includes a provision on mutual military assistance, serving as an ostensible legal basis for the deployment of Russian armed forces in Donbas.
451. On February 22, 2022, President Putin and the head of the LPR, Leonid Pasechnik, signed the resolution on recognition of the sovereignty of the LPR,<sup>629</sup> as described in paragraph 348. Like the resolution recognizing the DPR, this resolution also included a clause on mutual military assistance.
452. On February 22, 2022, the Federation Council unanimously ratified the resolutions to recognize the sovereignty of the DPR and the LPR,<sup>630</sup> as described in paragraph 349. The Federation Council is chaired by Valentina Matviyenko.
453. On February 22, 2022, at a plenary meeting, members of the State Duma unanimously supported ratification of the resolutions to recognize the DPR and the LPR.<sup>631</sup>
454. In preparation for the collective self-defense justification, the deployment of Russian armed forces abroad was authorized on the basis of the resolutions recognizing the DPR and the LPR:
455. On February 21, 2022, President Putin issued an instruction to the Defense Ministry to deploy “peacekeeping” troops to Donbas,<sup>632</sup> as described in paragraph 346.
456. On February 22, 2022, on the basis of the agreements recognizing the sovereignty of the DPR and the LPR, President Putin requested authorization to deploy the use of Russian armed forces abroad.<sup>633</sup>
457. On February 22, 2022, the Federation Council passed a resolution granting President Putin’s request for authorization to deploy the use of Russian armed forces abroad,<sup>634</sup> as described in paragraph 356. The Federation Council is chaired by Valentina Matviyenko.

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628 Federal Law No. 15-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance.”

629 Federal Law No. 16-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance.”

630 Federal Law No. 15-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance”; Federal Law No. 16-FZ “On Ratification of the Treaty of Friendship, Cooperation and Mutual Assistance.”

631 State Duma, “The State Duma ratified Treaties of Friendship with the Donetsk and Lugansk People’s Republics,” February 22, 2022, <http://duma.gov.ru/en/news/53516/>.

632 Decree of the President of the Russian Federation, No. 71 “On the Recognition of the Donetsk People’s Republic.”

633 Kremlin, “Vladimir Putin Submits Proposal to Federation Council to Approve Resolution Authorising Use of Armed Forces Aboard,” February 22, 2022, <http://en.kremlin.ru/events/president/news/67836>.

634 Decree of the Federation Council of the Federal Assembly of the Russian Federation, No. 35-SF “On the Use of the Armed Forces of the Russian Federation.”

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458. On February 22, 2022, Chairman of the Federation Council Andrey Klishas explained that the agreements recognizing these territories “create a legal base for the deployment of Russian army units on these territories to maintain peace in the region,” and that President Putin’s appeal to permit use of armed forces outside Russia was issued on the basis of these agreements.<sup>635</sup>
459. On February 23, 2022, the head of the DPR, Denis Pushilin, and the head of the LPR, Leonid Pasechnik, requested Russia’s military assistance.<sup>636</sup>
460. In preparation for the collective self-defense justification, further statements were made before and after the initiation of the invasion of Ukraine to reflect Russia’s alleged perception that any use of armed force against Ukraine would be justifiable in light of Ukraine’s supposed acts of provocation in Donbas and noncompliance with international law:
461. On November 1, 2021, in a media interview, Sergei Lavrov claimed that Ukraine is trying to create a provocative situation in Donbas in order to draw Russia into hostilities, and that Ukraine has been bombing Donbas in direct violation of the Minsk Agreements.<sup>637</sup>
462. On December 9, 2021, in a briefing of foreign military diplomats, Valery Gerasimov reportedly stated that any provocations by Ukrainian authorities to settle the conflict in Donbas with the use of force would be thwarted.<sup>638</sup>
463. On February 22, 2022, as reported in a tweet by the Russian Ministry of Foreign Affairs, President Putin warned that those in power in Ukraine must immediately stop hostilities, otherwise “responsibility for the possible continuation of the bloodshed will lie entirely on the conscience of Ukraine’s ruling regime.”<sup>639</sup>
464. On February 23, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, made a statement at a UN Security Council meeting that “Ukraine did not heed our signals that we sent to Kiev about the need to stop provocations against LPR and DPR. . . . Over [the] past 24 hours, OSCE SMM made records of almost 2,000 ceasefire violations, including almost 1,500 explosions. . . . In a word, the nature of provocations of Ukraine’s Armed Forces has not changed.”<sup>640</sup>

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635 TASS, “Russia’s Upper House Sanctions Use of Army Outside Russia Over Situation in Donbas,” February 22, 2022, <https://tass.com/politics/1408551>.

636 Deutsche Welle, “Russia Says Donbas Separatists Ask Putin for Military Support,” February 23, 2022, <https://www.dw.com/en/russia-says-donbas-separatists-ask-putin-for-military-support/a-60893224>.

637 Interfax, “Lavrov Said that Kyiv Is Trying to Draw the Russian Federation into Hostilities in the Donbass,” November 1, 2021, <https://www.interfax.ru/world/800736>.

638 TASS, “Moscow to Thwart Any Provocations by Kiev in Donbass, Russian Military Chief Warns,” December 9, 2021, [https://tass.com/world/1373123?utm\\_source=google.com&utm\\_medium=organic&utm\\_campaign=google.com&utm\\_referrer=google.com](https://tass.com/world/1373123?utm_source=google.com&utm_medium=organic&utm_campaign=google.com&utm_referrer=google.com).

639 MFA Russia, tweet, February 22, 2022, [https://twitter.com/mfa\\_russia/status/1496223630136643594](https://twitter.com/mfa_russia/status/1496223630136643594).

640 Permanent Representative of Russia to the UN, Statement and Reply at UNSC Briefing on Ukraine, February 23, 2022, <https://russiaun.ru/en/news/230222un>.

Nebenzia also stated that “the principle of sovereignty and territorial integrity of states, of which violation we are being accused with regard to Ukraine . . . must be strictly observed with regard to states that are ‘conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.’ The current government of Ukraine is not like this.”<sup>641</sup> Nebenzia further stated that “Ukraine’s provocations against Donbas not only failed to stop, but actually intensified, that is why the leadership of DPR and LPR turned to us with a request to grant military support under bilateral agreements on cooperation. . . . This is a logical step that clearly follows from the acts of Ukrainian regime.”<sup>642</sup>

465. On February 23, 2022, in a televised speech, President Putin announced that Russia would begin a “specialized military operation” in Donbas, with the aim of demilitarizing Ukraine.<sup>643</sup>
466. On February 23, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, made a statement at the same UN Security Council meeting that “what clearly follows from his message [President Putin’s February 23, 2022, speech] is that occupation of Ukraine is not part of our plan. The goal of this special operation is protection of people who have been victimized and exposed to genocide by the Kiev regime. To ensure this, we will seek demilitarization and denazification of Ukraine, and criminal prosecution for those who committed numerous heinous crimes against civilians. . . . This decision was made as per Article 51 of the UN Charter and authorized by the Federation Council of the Federal Assembly of Russia in pursuance of the Treaty of Friendship, Cooperation and Mutual Assistance with DPR and LPR.”<sup>644</sup>
467. On February 24, 2022, as reported on the Federation Council’s website, Valentina Matviyenko claimed that Russia’s “special military operation” was aimed at a ceasefire, and that Russia had insisted that the conflict in Donbas could only be resolved peacefully but Ukrainian authorities engaged in constant shelling and caused civilian deaths. She continued that Ukraine, through its declared intention to join NATO, intended to regain its nuclear status. Further, she claimed that Russia “could not leave people for extermination” in Donbas, and therefore supported the decision of the DPR and the LPR to be independent states.<sup>645</sup>

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641 Permanent Representative of Russia to the UN, Statement and Reply at UNSC Briefing on Ukraine, February 23, 2022.

642 Permanent Representative of Russia to the UN, Statement and Reply at UNSC Briefing on Ukraine, February 23, 2022.

643 Referred to by the UN Security Council; see SC/14803, <https://www.un.org/press/en/2022/sc14803.doc.htm>.

644 Permanent Representative of Russia to the UN, Statement and Reply at UNSC Briefing on Ukraine, February 23, 2022.

645 Federation Council, “V. Matvienko: We Could Not Leave People.”

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468. On February 25, 2022, in a tweet, the Russian Ministry of Foreign Affairs stated that Russia encouraged Ukrainian authorities to “stop the punitive operation against its own people and settle the conflict in Donbass by peaceful, political and diplomatic means,” but Ukraine ignored these pleas.<sup>646</sup>
469. On March 3, 2022, in a tweet, the Russian Ministry of Foreign Affairs claimed that, in addition to attacks on the population in Donbas, Ukraine had introduced an economic and transportation blockade in the region that brought it to “the brink of a humanitarian catastrophe.”<sup>647</sup>
470. On March 4, 2022, in her speech opening the 520th Session of the Federation Council, Valentina Matviyenko claimed that the Russian armed forces were fighting for peace in Donbas.<sup>648</sup>
471. On March 9, 2022, in a tweet, the Russian Ministry of Foreign Affairs claimed that classified documents acquired by the Russian Ministry of Defense disclosed an order by the Ukrainian Commander of the National Guard that confirmed that Ukraine was covertly preparing an offensive operation against Donbas, scheduled for March 2022.<sup>649</sup>
472. On March 15, 2022, in a meeting on national security in the North Caucasus, Nikolai Patrushev reportedly claimed that, in the course of its “special military operation,” Russia had uncovered evidence of Ukraine’s preparations to “invade” the DPR and the LPR, and on Crimea, in March 2022.<sup>650</sup>
473. On March 16, 2022, in a meeting on socio-economic support for the constituent entities of Russia, Vladimir Putin claimed that the main goal of Russia’s use of force in Ukraine was “to help our people in Donbass, who have been subjected to real genocide for nearly eight years,” and that, since Russia’s diplomatic efforts to resolve the matter were unsuccessful, it had been “left with no peaceful alternative to settle the problems that developed through no fault of [Russia’s]” but to begin the “special military operation.” He continued that the Russian “special military operation” was not connected with any desire to occupy Ukraine, and that Russia had “no alternative for self-defence.”<sup>651</sup>

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646 MFA Russia, tweet, February 25, 2022, [https://twitter.com/mfa\\_russia/status/1497216022075555863](https://twitter.com/mfa_russia/status/1497216022075555863).

647 MFA Russia, tweet, March 3, 2022, [https://twitter.com/mfa\\_russia/status/1499396791946473479](https://twitter.com/mfa_russia/status/1499396791946473479).

648 Federation Council, “520th meeting of the Federation Council—Transcript.”

649 MFA Russia, tweet, March 9, 2022, [https://twitter.com/mfa\\_russia/status/1501461950735257602](https://twitter.com/mfa_russia/status/1501461950735257602).

650 Iz, “Patrushev Announced Evidence of Kyiv’s Preparations for an Attack on Crimea,” March 15, 2022, <https://iz.ru/1305402/2022-03-15/patrushev-soobshchil-o-dokazatelstvakh-podgotovki-kieva-k-napadeniiu-na-krym>.

651 Kremlin, “Meeting on Socioeconomic Support for Regions.”

474. On March 16, 2022, in a media interview, Sergei Naryshkin claimed that the decision to conduct a special military operation was aimed at protecting the population of Donbas and protecting Russian security, and that any delay in doing so would have turned into a great tragedy.<sup>652</sup>
475. On March 24, 2022, in a tweet, the Russian Ministry of Foreign Affairs stated it hoped Ukraine would recognize the necessity of a peaceful solution to ensure its demilitarization and denazification, and transformation into a neutral state. The tweet continued that, the sooner Ukraine realized this, the sooner Russia’s “special military operation” would end.<sup>653</sup>
476. On March 28, 2022, in a meeting with the director-general of the Directorate of Documentation and External Security of Alegria, Nikolai Patrushev asserted that the goal of Russia’s special operation in Ukraine was not regime change, but the protection of people from genocide, and the demilitarization and denazification of Ukraine.<sup>654</sup>
477. On March 28, 2022, in a media interview, Sergei Lavrov stated that the goal of Russian actions in Ukraine was to eliminate threats that caused thousands of deaths and targeted civilian facilities in Donbas.<sup>655</sup>
478. On April 5, 2022, as reported on the Federation Council’s website, Valentina Matviyenko claimed that Ukraine had been preparing for another attempt to seize territory in Donetsk and Lugansk, necessitating Russia’s “special military operation.” She also claimed that Ukraine had been conducting a blockade and daily shelling in Donbas, killing thousands of civilians.<sup>656</sup>

***The accused persons gave false assurances of Russia’s peaceful intentions in respect of Ukraine’s sovereignty and territorial integrity***

479. False assurances of Russia’s peaceful intentions and respect for Ukraine’s sovereignty and territorial integrity were made in preparation for Russia’s acts of aggression relating to and following from the February 2022 events:
480. On November 27, 2021, in a media interview, Sergei Naryshkin claimed that rumors of Russia’s preparation to invade Ukraine were “nonsense,” and merely propaganda conducted by the U.S. State Department.<sup>657</sup>

652 RIA, “Naryshkin: The Decision to Conduct a Special Operation.”

653 MFA Russia, tweet, March 24, 2022, [https://twitter.com/mfa\\_russia/status/1506992164068278273](https://twitter.com/mfa_russia/status/1506992164068278273).

654 Abdulrahman Yusupov, “Patrushev: Russia Does Not Seek to Overthrow Zelenskyk,” Anadolu Agency, March 28, 2022, <https://www.aa.com.tr/ru/мир/матрушев-россия-не-стремится-к-свержению-зеленского-/2548176>.

655 Ministry of Foreign Affairs of Russia, “Interview with S. Lavrov to the Serbian Media,” March 28, 2022, <https://www.youtube.com/watch?v=y4q8pXRcfSo>.

656 Federation Council, “V. Matviyenko: Our Servicemen.”

657 Interfax, “Naryshkin Called the Purpose of the Rumors.”

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481. On November 30, 2021, in a media interview, Nikolai Patrushev stated that there were no unsubstantiated Russian troop movements or unplanned military exercises near the border with Ukraine, and that the rhetoric from Western media and U.S. officials that Russia nurtured aggressive plans was groundless.<sup>658</sup>
482. On December 1, 2021, in a media interview, Valentina Matviyenko claimed that accusations of an impending Russian attack on Ukraine were lies with no basis.<sup>659</sup>
483. On December 9, 2021, in a briefing of foreign military diplomats, Valery Gerasimov reportedly stated that “hype” in the media about preparation for a Russian invasion of Ukraine was a lie, and that troop movements in the course of combat training constituted routine practice.<sup>660</sup>
484. On January 30, 2022, in a media interview, Nikolai Patrushev stated that it was a “complete absurdity” to suggest that Russia was threatening Ukraine, and that Russia did not want war.<sup>661</sup>
485. On January 31, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, made a statement to the UN decrying U.S. claims of “the presence of Russian troops on Russian territory as a threat to international peace and security” as an interference in Russia’s internal affairs and an attempt to mislead the international community as to the reality of the situation in Donbas.<sup>662</sup>
486. On February 9, 2022, in a tweet, the Russian Ministry of Foreign Affairs called for de-escalation of tensions around Ukraine, and for settlement of the conflict in Donbas.<sup>663</sup>
487. On February 10, 2022, in a media interview, Sergei Naryshkin asserted that Russia had no aggressive plans in relation to Ukraine, and that suggestions to the contrary were “dangerous lies” spread by the U.S.<sup>664</sup>

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658 TASS, “Russia’s Security Chief Sees no Unsubstantiated.”

659 RIA, “Moscow Did Not Give Kiev a Reason to Talk about Aggression, Said Matvienko,” December 1, 2021, <https://ria.ru/20211201/ukraina-1761643113.html>.

660 TASS, “Moscow to Thwart Any Provocations.”

661 TASS, “Patrushev Called the allegations That the Russian Federation Threatens Ukraine ‘Total Absurdity,’” January 30, 2022, <https://tass.ru/politika/13566241>.

662 Permanent Representative of Russia to the UN, Statement Requesting a Procedural Vote on the U.S. Proposal to Convene a UNSC Meeting on Ukraine, January 31, 2022, <https://russiaun.ru/en/news/310122>.

663 MFA Russia, tweet, February 9, 2022, [https://twitter.com/mfa\\_russia/status/1491421159854080002](https://twitter.com/mfa_russia/status/1491421159854080002).

664 Fonte, “Intelligence Director Denies.”

488. On February 10, 2022, Sergei Lavrov denied that Russia had any plans to invade Ukraine.<sup>665</sup> Following the invasion, Sergei Lavrov continued to falsely claim that Russia did not attack Ukraine, stating: “Russia has no plans to attack other countries, we have not even attacked Ukraine.”<sup>666</sup>
489. On February 15, 2022, at a press conference, President Putin stated that opportunities to restore Ukraine’s territorial integrity via a direct dialogue with Donetsk and Luhansk continued to be ignored.<sup>667</sup>
490. On February 16, 2022, in an interview published on the Federation Council’s website, Valentina Matviyenko claimed that Russia did not want war with Ukraine and would do everything to ensure that there was no war.<sup>668</sup>
491. On February 22, 2022, Chairman of the State Duma Vyacheslav Volodin stated that the decision to recognize the sovereignty of the DPR and the LPR had stopped war and was aimed at bringing peace.<sup>669</sup>
492. On February 23, 2022, an agent of the Russian state, Permanent Representative of Russia to the UN Vassily Nebenzia, made a statement at a UN Security Council meeting claiming that “Russian military will be monitoring the ceasefire upon request of Donetsk and Lugansk.”<sup>670</sup>
493. False assurances of Russia’s peaceful intentions and respect for Ukraine’s sovereignty and territorial integrity were also made in preparation for Russia’s acts of aggression in Crimea:
494. On March 4, 2014, President Putin assured journalists that his government did not have intentions of occupying and annexing Crimea to the Russian Federation:

Question: How do you see the future of Crimea? Do you consider the possibility of it joining Russia?

Vladimir Putin: No, we do not. Generally, I believe that only residents of a given country who have the freedom of will and are in complete safety can and should

665 Victoria Crow, “Russia’s Sergei Lavrov Describes Liz Truss Talks as ‘Speaking to a Deaf Person’ as Ukraine Tensions Escalate,” INews, February 10, 2022, <https://inews.co.uk/news/world/russias-sergei-lavrov-describes-liz-truss-talks-as-speaking-to-a-deaf-person-amid-ukraine-tensions-1452975>.

666 Patrick Wintour, “Sergei Lavrov Prefers Propaganda over Reality in Ukraine Talks,” *The Guardian*, March 10, 2022, <https://www.theguardian.com/world/2022/mar/10/sergei-lavrov-russia-foreign-minister-propaganda-in-ukraine-talks>.

667 Kremlin, “News Conference Following Russian-German Talks.”

668 Federation Council, “Russian Society Does Not Want War.”

669 State Duma, “Chairman of the State Duma: The Decision to Recognize DPR and LPR Has Stopped War,” February 22, 2022, <http://duma.gov.ru/en/news/53521/>.

670 Permanent Representative of Russia to the UN, Statement at UNGA Under Agenda Item “The Situation in the Temporarily Occupied Territories of Ukraine,” February 23, 2022.

determine their future. . . . However, we will in no way provoke any such decision and will not breed such sentiments. I would like to stress that I believe only the people living in a given territory have the right to determine their own future.<sup>671</sup>

495. At the March 4, 2014, press conference, President Putin also categorically denied that those involved in blocking the Ukrainian army units in Crimea were trained Russian military personnel.<sup>672</sup>

496. Further, at the March 4, 2014, press conference, President Putin was questioned on Russia's use of force in Crimea, to which he answered:

You should note that, thank God, not a single gunshot has been fired there; there are no casualties, except for that crush on the square about a week ago. . . . There was not a single armed conflict, not a single gunshot. . . . Thus the tension in Crimea that was linked to the possibility of using our Armed Forces simply died down and there was no need to use them. The only thing we had to do, and we did it, was to enhance the defence of our military facilities because they were constantly receiving threats and we were aware of the armed nationalists moving in. We did this, it was the right thing to do and very timely. Therefore, I proceed from the idea that we will not have to do anything of the kind in eastern Ukraine.<sup>673</sup>

### *The accused persons amassed troops on the border with Ukraine*

497. Russia amassed troops in Ukraine in preparation for its acts of aggression in Crimea. Contrary to agreements concluded between Russia and Ukraine regarding the number of Russian troops that could be on the territory of Ukraine, the number of Russian military personnel in Crimea started to increase in late January 2014, reaching 18,430 personnel by March 12, 2014, and 22,000 personnel by March 18, 2014.<sup>674</sup>

498. Russia also amassed troops on the border with Ukraine in preparation for its acts of aggression in Donbas:

- U.S. intelligence estimated that there were 40,000–50,000 Russian troops amassed on the border with Ukraine by the end of March 2014.<sup>675</sup>

671 Kremlin, "Vladimir Putin Answered Journalists' Questions."

672 Kremlin, "Vladimir Putin Answered Journalists' Questions."

673 Kremlin, "Vladimir Putin Answered Journalists' Questions."

674 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 318.

675 CBS News, "Putin Reaches Out to Obama as Russian Troops Continue to Mass on Ukraine Border," March 28, 2014, <https://www.cbsnews.com/news/putin-calls-obama-over-ukraine/>

- Intelligence assessments, confirmed by the European Union and NATO member states, documented the rapid appearance of well-equipped, uniformed armed groups in Donetsk and Luhansk beginning in early April 2014.<sup>676</sup>
  - In April 2014, satellite images showed that Russia had amassed military equipment on the eastern border of Ukraine. NATO reported that “Russian forces in the vicinity of the border with Ukraine number in the range of 35,000 to 40,000 troops and are equipped with infantry fighting vehicles, tanks, combat aircraft, logistics, and artillery.”<sup>677</sup>
  - The ECtHR found it was established beyond reasonable doubt that Russian military personnel were present in an active capacity in Donbas from at least April 2014.<sup>678</sup> The court also found that there was a large-scale deployment of Russian troops “[f]rom at the latest August 2014 in the context of the battle of Ilovaisk.”<sup>679</sup>
499. Russia used large-scale military exercises as a pretense to reposition its armed forces near Ukraine and to prepare for an invasion in February 2022.
500. From April 7, 2021, to May 17, 2021, the Russian armed forces built up significant force elements in eastern Ukraine regions. A central focal point for this buildup was an air and amphibious assault exercise held on the southern coast of the Crimean Peninsula. These exercises were assessed to have been intended as a public demonstration of Russian capability to launch an overwhelming offensive against southeastern Ukraine. They also served as a basis for significant position forces close to Ukraine.<sup>680</sup>
501. According to official statements, the Southern Military District and Western Military District combat readiness checks were completed on April 22, 2021, and the units involved should have returned to their permanent bases by May 1, 2021. However, the Russian defense minister, Sergei Shoigu, stated that the equipment and weaponry attached to the Western Military District would not be redeployed to its permanent bases, but instead transported to the Pogonovo temporary field camp in Voronezh, close to the Ukrainian boarder.<sup>681</sup>

676 Bukkvoll, “Russia Special Operations Forces.”

677 NATO, “NATO Defends Accuracy.”

678 Ukraine and the Netherlands v. Russia, Grand Chamber Decision of November 30, 2022, para. 611.

679 *Ukraine and the Netherlands v. Russia*, Grand Chamber Decision of November 30, 2022, para. 611.

680 Anna Maria Dyer, “Russia’s Demonstration of Power on the Border with Ukraine and in Occupied Crimea,” Polish Institute of International Affairs (PISM), May 14, 2021, [https://pism.pl/publications/Russias\\_Demonstration\\_of\\_Power\\_on\\_the\\_Border\\_with\\_Ukraine\\_and\\_in\\_Occupied\\_Crimea](https://pism.pl/publications/Russias_Demonstration_of_Power_on_the_Border_with_Ukraine_and_in_Occupied_Crimea).

681 Matthew P. Funaiolo, Joseph S. Bermudez Jr., Heather A. Conley, and Cyrus Newlin, “Unpacking the Russian Troop Buildup along Ukraine’s Border,” Center for Strategic and International Studies, April 22, 2021, <https://www.csis.org/analysis/unpacking-russian-troop-buildup-along-ukraines-border>.

502. Russian Ministry of Defense officials stated that since April 2021, the Pogonovo training ground in Voronezh Oblast was storing the Central Military District's 41st CAA equipment ahead of a joint military exercise with Belarus, named Zapad-2021, that took place over a six-day period, from September 10–16, 2021, at nine training grounds located on Russian territory, in the Baltic Sea, as well as at five training grounds of the armed forces of the Republic of Belarus.<sup>682</sup> Zapad-2021 was a large-scale exercise consisting of integrated ground, air, and sea activity. Zapad-2021 included 200,000 personnel; approximately 80 aircraft and helicopters; up to 760 units of military equipment, including 290 tanks, 240 guns, multiple launch rocket systems and mortars; and up to 15 ships.<sup>683</sup>
503. Media reporting suggests that neither the Pogonovo training ground nor the 41st CAA were significantly involved in the Zapad-2021 main exercise, likely indicating that the Ministry of Defense's statement in April 2021 about storing equipment in region for Zapad-2021 was rhetorical justification for the redeployment of a significant Central Military District force near Ukraine's northeastern border with Russia, possibly for pre-positioning for acts of aggression.<sup>684</sup>
504. Due to the further lack of return to base by the battalion tactical groups of the Russian army post-Zapad 2021, this meant that significant forces were kept in proximity to Ukraine after the exercises. In addition, 19 battalion tactical groups that had appeared primarily during Zapad-2021 in both Russia and Belarus were also not returned to base after the Zapad-2021 exercises.<sup>685</sup>
505. On January 18, 2022, it was announced that a joint Russian Ministry of Defense–Belarusian Ministry of Defense combat readiness exercise called Union Resolve would be held from February 10–20, 2022. Union Resolve would be conducted in two stages. According to the chief of the Belarusian Defense Ministry's International Military Cooperation Department, “[i]n the first stage before February 9, the Belarusian and Russian militaries will practice redeploying troops and creating task forces in dangerous directions within a short period. At the second stage of the inspection that will run on February 10–20, the Union Resolve 2022 joint drills will be held.”<sup>686</sup>

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682 Clark and Barros, “Russia’s Zapad-2021 Exercise,” Institute for the Study of War, September 17, 2021, <https://understandingwar.org/research/russia-ukraine/russias-zapad-2021-exercise/>.

683 TASS, “Russian-Belarusian Exercise Zapad-2021 Begins in Nizhny Novgorod Region,” September 9, 2021, <https://tass.com/defense/1335631>.

684 Paul Sonne, Ruby Mellen, and Laris Karklis, “Russian Military Movements Near Ukraine: What Satellite Images Show,” *Washington Post*, December 8, 2021, <https://www.washingtonpost.com/world/2021/12/08/russia-ukraine-satellite-images/>.

685 Bohdan Marusyak, “Ukraine Does Not Record Return of Russian Military to Places of Permanent Deployment after Zapad 2021 Exercise,” Promote Ukraine, September 26, 2021, <https://www.promoteukraine.org/ukraine-not-records-return-of-russian-military-to-places-of-permanent-deployment-after-zapad-2021-exercise/>.

686 TASS, “Russia, Belarus to Hold Union Resolve 2022 Drills on February 10–20—Top Brass,” January 18, 2022, <https://tass.com/defense/1389595>.

506. On February 10, 2022, Russia and Belarus began 10 days of joint military drills. The military drills, called Allied Resolve-2022, began in Belarus and was reported to end on February 20, 2022, the Russian Ministry of Defense announced in a statement.<sup>687</sup> Vladimir Putin stated that Russian military drills were “purely defensive” and “not a threat to any other country.”<sup>688</sup> The statement from the Ministry of Defense stated that “[t]he purpose of the exercise is to work out the tasks of suppressing and repelling external aggression while conducting a defensive operation, countering terrorism and protecting the interests of the Union State.”<sup>689</sup> Russia’s military exercises threatened Ukraine of an impending risk of invasion. Ukraine had decried the Zapad joint exercises as a form of psychological pressure. The president of Ukraine, Volodymyr Zelensky, said on February 10, 2022, that “the buildup of troops along the borders is psychological pressure from our neighbors.”<sup>690</sup>
507. Russia’s deployment into Belarus was believed to be its biggest there since the Cold War, with “an expected 30,000 combat troops, Spetsnaz special operation forces, fighter jets including SU-35, Iskander dual-capable missiles and S-400 air defense systems.”<sup>691</sup> Satellite imagery on February 7, 2010, showed the Russian military had established camps close to the Belarusian border with Ukraine.<sup>692</sup> Thus, Russia was preparing its invasion into Ukraine by amassing troops at its border.
508. On Thursday, February 10, the Russian Defense Ministry posted images of six large amphibious landing ships at the port of Sevastopol in Crimea, after they transited into the Black Sea earlier that week.<sup>693</sup> Russia declared a wide swath of the Sea of Azov and Black Sea unsafe as it performed missile and artillery fire exercises from February 14–19, the Ukrainian Naval Forces Command said in a statement with the Defense Ministry on February 10, 2022.<sup>694</sup>

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687 “Russia Holds Military Drills in Belarus amid Rising Tensions with Ukraine”, *The Hill*, February 10, 2022, <https://thehill.com/policy/international/593674-russia-holds-military-drills-in-belarus-amid-tensions-with-ukraine/>.

688 CNN, “Russia’s Putin Says Military Exercises Are ‘Purely Defensive and Do Not Threaten Anyone,’” February 18, 2022, [https://edition.cnn.com/europe/live-news/ukraine-russia-news-02-18-22-intl/h\\_9fdb09e3aa1f8f6ed7820efe0eacefa](https://edition.cnn.com/europe/live-news/ukraine-russia-news-02-18-22-intl/h_9fdb09e3aa1f8f6ed7820efe0eacefa).

689 “Russia Holds Military Drills,” *The Hill*.

690 Interfax, “Zelensky Calls Military Buildup along Ukraine’s Borders ‘Psychological Pressure,’” February 10, 2022, <https://en.interfax.com.ua/news/general/797330.html>.

691 Reuters, “Russia Has Sent Some 30,000 Combat Troops, Modern Weapons to Belarus, NATO Says,” February 3, 2022, <https://www.reuters.com/world/europe/russia-has-sent-some-30000-combat-troops-modern-weapons-belarus-nato-says-2022-02-03/>.

692 CNN, “Russia and Belarus Hold Joint Military Exercises as Diplomatic Talks Ramp Back Up,” February 10, 2022, <https://edition.cnn.com/2022/02/10/europe/ukraine-russia-news-thursday-military-exercises-intl/index.html>.

693 CNN, “Russia and Belarus Hold Joint Military Exercises.”

694 Ministry of Defence of Ukraine, Statement on February 10, 2022, <https://www.mil.gov.ua/en/news/2022/02/10/we-expect-a-strong-response-from-the-partners-when-the-russian-federations-vessels-will-be-not-able-to-entry-easily-civilized-ports-they-will-see-the-price-for-their-impudence-%E2%80%93-the-minister-of-defence-of-ukraine/>.

509. On February 15, 2022, Sergei Shoigu visited the president of Syria, Bashar al-Assad, and inspected a Russian navy exercise in the Mediterranean Sea. During this visit, Sergei Shoigu also heard a report from Russian Navy Commander Nikolai Yevmenov on joint combat training exercises involving Russian ships and air force planes dedicated to defeating a simulated enemy's naval groups and firing artillery and anti-submarine systems at sea-based and airborne targets.<sup>695</sup>

*The accused persons engaged in diplomatic maneuvers to prevent third states from aiding Ukraine*

510. In preparing for Russia's acts of aggression, several steps were taken to prevent third States, particularly the U.S. and other NATO members, from aiding Ukraine:
511. On February 9, 2022, the Russian Ministry of Foreign Affairs set out conditions for the West to de-escalate the situation at the border with Ukraine. These conditions were for third states to "stop weapon deliveries to Ukraine, withdraw their military advisers and instructors, discontinue joint exercises between Ukrainian forces and NATO, and pull out all earlier supplied foreign armaments to locations beyond the Ukrainian territory."<sup>696</sup>
512. At the same February 9, 2022, meeting, the Russian Ministry of Foreign Affairs exerted diplomatic pressure on NATO to renounce its open-doors policy.<sup>697</sup>
513. In addition, Russia engaged in diplomatic negotiations over the tension with Ukraine up to the invasion, maintaining the appearance that Russia intended to resolve any tensions through diplomatic negotiations while simultaneously conducting other preparations for aggression against Ukraine:
514. On February 14, 2022, President Putin met with Sergei Lavrov to discuss the U.S. and NATO responses to Russia's proposals regarding NATO's expansion eastward, projecting the appearance of an intention to resolve any tensions through diplomatic negotiations.<sup>698</sup>
515. On February 15, 2022, following talks with the chancellor of Germany, Olaf Scholz, President Putin stated that the U.S. and NATO responses to Russian proposals on security guarantees did not meet Russian requirements, and that Ukraine was refusing to abide by the Minsk Agreements and 2015 arrangements.<sup>699</sup>

695 TASS, "Defense Chief Inspects Russian Navy's Massive Mediterranean Drills," February 15, 2022, [https://tass.com/defense/1403933?utm\\_source=google.com&utm\\_medium=organic&utm\\_campaign=google.com&utm\\_referrer=google.com](https://tass.com/defense/1403933?utm_source=google.com&utm_medium=organic&utm_campaign=google.com&utm_referrer=google.com).

696 Ministry of Foreign Affairs, "Briefing by Foreign Ministry Spokeswoman Maria Zakharova," February 9, 2022, [https://www.mid.ru/en/press\\_service/spokesman/briefings/1797611/#9](https://www.mid.ru/en/press_service/spokesman/briefings/1797611/#9).

697 Ministry of Foreign Affairs, "Briefing by Foreign Ministry Spokeswoman Maria Zakharova."

698 Kremlin, "Meeting with Foreign Minister Sergei Lavrov," February 14, 2022, <http://en.kremlin.ru/events/president/news/67766>.

699 Kremlin, "News Conference Following Russian-German Talks."

516. On February 16, 2022, Kremlin Spokesman Dmitry Peskov told the press that the State Duma’s request to recognize the DPR and the LPR, while indicative of prevailing public opinion in Russia, would not be in line with the Minsk Agreements that President Putin was focused on implementing.<sup>700</sup>
517. On February 16, 2022, in an interview published on the Federation Council’s website, Valentina Matviyenko claimed that, despite the West’s refusal to provide security guarantees, Russia continued to keep the door open for negotiations and was ready to discuss the “proposals of opponents, to look for mutually acceptable solutions.”<sup>701</sup>

*The accused persons engineered incidents as pretexts for military action in Ukraine*

518. Russia engineered pretexts for military action in relation to the acts of aggression in Crimea.
519. Russia claimed before the ECtHR that the origin of the conflict in Crimea lay in the “violent overthrow of the constitutional government in [Kyiv]” followed by its substitution by an “unconstitutional, ultra-right-wing and unrepresentative government,” which occurred on February 22, 2014.<sup>702</sup>
520. As described in paragraph 45, Russia has also justified its military action as protection of Russian-speaking population and humanitarian aid.
521. As for Donbas, in July 2014, Russia’s foreign ministry said the Ukrainian army was responsible for shelling that killed a man inside Russian territory, warning that the incident would have “irreversible consequences.” This led to an escalation of military action and rhetoric. But reports suggested that who was responsible for the firing remained unclear.<sup>703</sup>
522. As described in paragraphs 191 and 262, Russia has also justified its military action as protection of the Russian-speaking population and implied it was preventing genocide.
523. Russia reportedly engineered a pretext for military action in Ukraine following an incident of heavy shelling in eastern Ukraine on February 17, 2022. The president of Ukraine, Volodymyr Zelensky, said pro-Russian forces in eastern Ukraine had shelled a kindergarten and described it as a “big provocation.”<sup>704</sup> British Foreign Secretary Liz Truss stated that “[r]eports of alleged abnormal military activity by Ukraine in Donbass are a blatant attempt by the Russian government to fabricate pretexts for invasion.”<sup>705</sup>

700 TASS, “Recognition of Donbas Republics Not in Line with Minsk Accords, Says Kremlin,” February 16, 2022, [https://tass.com/politics/1404329?utm\\_source=google.com&utm\\_medium=organic&utm\\_campaign=google.com&utm\\_referrer=google.com](https://tass.com/politics/1404329?utm_source=google.com&utm_medium=organic&utm_campaign=google.com&utm_referrer=google.com)

701 Federation Council, “Russian Society Does Not Want War.”

702 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 174.

703 Walker, Ukraine’s Shelling.”

704 Dmitry Antonov and Pavel Polityuk, “Kyiv, West Fear ‘Pretexts for Invasion’ after Shelling in East Ukraine,” *National Post*, February 17, 2022, <https://nationalpost.com/pmnl/news-pmn/crime-pmn/kyiv-west-fear-pretexts-for-invasion-after-shelling-in-east-ukraine>.

705 Reuters, “UK Says Russia Attempting to Fabricate Pretext to Invade Ukraine,” February 17, 2022, <https://www.reuters.com/world/europe/britain-says-russias-putin-could-drag-out-ukraine-crisis-months-2022-02-17/>.

524. The United States also reported it had acquired intelligence about a Russian plan to fabricate a pretext for an invasion in Ukraine using a faked video of a fabricated attack by the Ukrainian military either on Russian territory or against Russian-speaking people in Ukraine.<sup>706</sup>

*The accused persons intervened in the internal affairs of Ukraine*

525. Russia intervened in Ukraine’s internal affairs in several ways, including in relation to Crimea, as outlined in paragraphs 71 above, which set out Russia’s intervening actions in Crimea in detail. In summary: President Putin sought authorization for the use of Russian armed forces in March 2014, which was then authorized by a unanimous resolution of the Federal Council. The State Duma then formally and unlawfully incorporated Crimea into the Russian Federation.
526. Russia also intervened in Ukraine’s internal affairs in several ways, including in relation to the Donbas region. Paragraphs 148-152 above set out Russia’s intervening actions on the Donbas region in detail. In summary: Vladimir Putin enacted a decree extending Russian citizenship to residents of Donetsk and Luhansk in Ukraine. Russia deployed “peacekeeping troops” to Donbas, Ukraine. Lawmakers in Russia, including at the State Duma, at the Federation Council, and Vladimir Putin, passed a resolution recognizing the sovereignty of the DPR and the LPR, both regions of Ukraine. In doing so, Vladimir Putin signed agreements on mutual military assistance with the heads of these supposed republics. The UN General Assembly deemed this decision to recognize the DPR and the LPR as a violation of the territorial integrity and sovereignty of Ukraine, contrary to the principles of the UN Charter.<sup>707</sup> Vladimir Putin requested authorization to deploy Russian armed forces abroad, and the Federation Council passed a resolution granting this request.
527. By the foregoing acts, conduct, and practices, Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov are responsible for the crime of aggression by preparing Russia’s acts of aggression.

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706 Julian E. Barnes, “U.S. Exposes What It Says Is Russian Effort to Fabricate Pretext for Invasion,” *New York Times*, February 3, 2022, <https://www.nytimes.com/2022/02/03/us/politics/russia-ukraine-invasion-pretext.html>.

707 GA Res. ES-11/1 of March 2, 2022.

## Initiation

528. Initiation includes the decision made immediately before the first use of force to commit the act of aggression, including by way of a declaration of hostilities,<sup>708</sup> and the first actual use of force.<sup>709</sup>

### *Vladimir Putin made a declaration of hostilities*

529. Vladimir Putin initiated Russia's acts of aggression by making a declaration of hostilities in his speech of February 24, 2022. In that speech, he announced that he had decided to conduct a "special military operation,"<sup>710</sup> which would involve unilateral military action by Russian armed forces on Ukrainian territory. Ukraine was clearly identified as the target State for the hostilities as the speech made 13 references to Ukraine, identified the operation's objective as the "demilitarization and de-nazification of Ukraine,"<sup>711</sup> exhorted members of the Ukrainian armed forces to lay down their weapons,<sup>712</sup> and referenced events in the Donbas region of Ukraine.<sup>713</sup>

### *The accused persons initiated the first use of force in Ukraine*

530. The first use of force by Russia in Ukraine on February 24, 2022, to execute Vladimir Putin's "special military operation," separate from Russia's previous initiation of the use of force in Crimea and Donbas, is described in paragraph 216 above.
531. The first clear use of force by Russia in Crimea on the night of February 26–27, 2014, is described in paragraph 64 above.
532. By the foregoing acts, conduct, and practices, Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov are responsible for the crime of aggression by initiating Russia's acts of aggression.

708 Muhammad Aziz Shukri, "Individual Responsibility for the Crime of Aggression," in *International Criminal Justice: Law and Practice from the Rome Statute to its Review*, ed. Roberto Belli (Ashgatem, 2010), 528; McDougall, *The Crime of Aggression under the Rome Statute* 238.

709 The Nuremberg Tribunal described the "the initiation of war" as a "a unilateral operation. When war is formally declared or the first shot is fired the initiation of the war has ended and from then on there is a waging of war between the two adversaries," Nuremberg Trial, High Command Case, The United Nations War Crimes Commission, Law Reports of Trials of War Criminals, vol. XII, 1949, [https://tile.loc.gov/storage-services/service/ll/llmlp/Law-Reports\\_Vol-12/Law-Reports\\_Vol-12.pdf](https://tile.loc.gov/storage-services/service/ll/llmlp/Law-Reports_Vol-12/Law-Reports_Vol-12.pdf), 67.

710 See "Letter Dated 24 February 2022 from the Permanent Representative of the Russian Federation," reproduced in Appendix at para. 38.

711 Appendix, para. 39.

712 Appendix, para. 49.

713 Appendix, paras. 1, 38.

## Execution

533. “Execution” refers to “all substantive strategic acts undertaken after the initiation of an act of aggression to secure the continuation and success of the aggressive act.”<sup>714</sup> Execution includes commanding armed forces conducting the acts of aggression,<sup>715</sup> and governing territory occupied as a result of the acts of aggression.<sup>716</sup>

### *The accused persons secured Russia’s occupation of parts of Ukraine’s territory*

534. As set out in paragraphs 67-78, Russia can be considered to have occupied Crimea as of February 27, 2014. Russian forces invaded Crimea on the night of February 26-27, 2014.
535. President Putin in a statement on the night of February 22-23, 2014, informed the heads of Russian state security agencies that he had decided to “start working on the return of Crimea to the Russian Federation.”<sup>717</sup>
536. The Russian Federation Council, chaired by Valentina Matviyenko, adopted on March 1, 2014, on the request of President Putin, Resolution No. 48-SF authorizing President Putin to use the Russian armed forces on the territory of Ukraine.
537. Minister of Defense Sergi Shoigu stated that Russian special forces had seized the building of Crimea’s Supreme Council on February 27, 2014.<sup>718</sup>
538. President Putin then stated in a televised interview that Russia “disarm[ed] the military units of the Ukrainian army and law enforcement agencies” and that the “Russian servicemen did back the Crimean self-defense forces.”<sup>719</sup>
539. As set out in paragraphs 138-143, Russia can be considered to have occupied Donbas by proxy at the very latest by April 2014. There is ample evidence of Russian military presence in an active capacity in Donbas, starting at least in April 2014 and culminating by August 2014. Starting in at least July 2014, Russia transferred intelligence and military officers and personnel to Donbas to assist the DPR and the LPR forces, with many taking commanding positions, thereby directing and supervising the DPR and the LPR military activities.

714 McDougall, *The Crime of Aggression under the Rome Statute* 239.

715 On the jurisprudence of the tribunals after World War II, see Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, p. 64 (judgment against Göring, paras. 64 (k), (m) and para. 65), noting that as Commander in Chief of the Armed Forces Göring commanded armed forces during an aggressive war.

716 On the jurisprudence of the tribunals after World War II, see Preparatory Commission for the International Criminal Court, Historical review of developments relating to aggression, Addendum, PCNICC/2002/WGCA/L.1/Add.1, p. 78 (judgment against Keppeler, paras. 217(e), 219).

717 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras. 199, 331.

718 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, para. 331.

719 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision (Admissibility) of December 16, 2020, paras. 332-333.

540. President Putin stated in 2015 that “[w]e never said there are no people there [in Donbas] who deal with certain matters, including in the military area”,<sup>720</sup> thereby acknowledging Russia’s role in the occupation.
541. NATO and independent analysts identified military operations in Donbas as being conducted under the authority of Defense Minister Sergei Shoigu and with coordination from General Staff officers.<sup>721</sup>
542. Alexander Borodai, a Russian national, was also approved the head of the new DPR and the LPR government. In 2021, Borodai was elected as a member of the Russian State Duma for the ruling United Russia party.<sup>722</sup>
543. As set out in paragraph 219 onwards, Russia can be considered to have occupied parts of the Ukrainian territory starting in February 2022, starting with the military invasion and attack on February 24, 2022, following President Putin’s announcement of the “special military operation.” The invasion has resulted in occupation of parts of the territory in Ukraine.

### *The accused persons secured the annexation of Crimea*

544. As set out in paragraphs 79–82, Russia annexed Crimea. In summary:
545. On March 17, 2014, Vladimir Putin signed an executive order recognizing the Republic of Crimea as a sovereign and independent State, with the city of Sevastopol enjoying a special status within that State.<sup>723</sup>
546. On March 18, 2014, Vladimir Putin notified the Federation Council, the State Duma, and the government of proposals from Crimea regarding Crimea’s admission into the Russian Federation and the formation of new constituent territories within the Russian Federation.<sup>724</sup>
547. On March 18, 2014, Vladimir Putin signed the executive order approving the draft agreement between Russia and Crimea for Crimea’s admission into the Russian Federation.<sup>725</sup>

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720 *Ukraine v. Russia (Re Crimea)*, Grand Chamber Decision of November 30, 2022, para. 588.

721 NATO, SACEUR, press briefing, August 28, 2014; IISS, *The Military Balance 2015*.

722 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para. 105.

723 Kremlin, “Vladimir Putin Signed Executive Order On Recognizing the Republic of Crimea,” March 17, 2014, <http://en.kremlin.ru/events/president/news/20596>.

724 Kremlin, “The President Has Notified the Government, the State Duma and the Federation Council of Proposals by the Crimean State Council and the Sevastopol Legislative Assembly Regarding Their Admission to the RF and the Formation of New Constituent Territories,” March 18, 2014, <http://en.kremlin.ru/acts/news/20599>.

725 Kremlin, “Order on Executing Agreement on Admission of Republic of Crimea into the Russian Federation,” March 18, 2014, <http://en.kremlin.ru/acts/news/20600>.

548. On March 18, 2014, Vladimir Putin requested the Russian Constitutional Court to verify the compliance of the draft agreement between Russia and Crimea for Crimea's admission into the Russian Federation with the Russian Constitution.<sup>726</sup>
549. On March 19, 2014, Vladimir Putin submitted to the State Duma for ratification the agreement between Russia and Crimea for Crimea's admission into the Russian Federation with the Russian Constitution.<sup>727</sup>
550. On March 21, 2021, Vladimir Putin signed federal constitutional laws admitting Crimea to the Russian Federation.<sup>728</sup>

### *The accused persons secured Russia's annexation of Donbas*

551. As set out in paragraphs 154–162, Russia annexed Donbas. In summary:
552. On February 21, 2022, lawmakers in Russia, including at the State Duma, at the Federation Council, and President Putin, passed a resolution recognizing the sovereignty of the Donetsk People's Republic and Lugansk People's Republic, both regions of Ukraine.
553. On September 30, 2022, after "referendums" in the Donetsk, Luhansk, Zaporizhzhia, and Kherson regions, President Putin declared that these regions of Ukraine would be formally incorporated into the Russian Federation and signed "treaties" to that effect.
554. On October 5, 2022, Vladimir Putin signed legislation annexing four Ukrainian regions: Donetsk, Luhansk, Zaporizhzhia, and Kherson.<sup>729</sup>

### *The accused persons secured the continuation of Russia's full-scale invasion of Ukraine*

555. The beginning of Russia's acts of aggression in Ukraine on February 24, 2022, separate from its ongoing acts of aggression in Crimea and Donbas, is described in detail in paragraph 216, demonstrating the execution of the act of aggression. Russia's acts of aggression in Ukraine in 2022, and the ensuing conflict, has resulted in nearly 2,000 civilian casualties (see paragraph 217); bombardments and indiscriminate attacks, including of populated areas (see paragraph 223); blockades of Ukrainian ports and coasts (see paragraphs 248–252); and attacks against the Ukrainian armed forces (see paragraphs 253–255).

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726 Kremlin, "Request to Verify Compliance of Agreement on Accession of Republic of Crimea to the Russian Federation with the Constitution," March 18, 2014, <http://en.kremlin.ru/acts/news/20614>.

727 Kremlin, "Agreement on the Accession of the Republic of Crimea to the Russian Federation Submitted to State Duma for Ratification," March 19, 2014, <http://en.kremlin.ru/acts/news/20616>.

728 Kremlin, "Laws on Admitting Crimea and Sevastopol to the Russian Federation," March 21, 2021, <http://en.kremlin.ru/events/president/news/20625>.

729 Troianovski, "Putin Signs Annexation Laws."

556. The accused persons secured the continuation of Russia’s acts of aggression by shoring up domestic support for, and suppressing dissent on, these acts:
557. On March 4, 2022, Vladimir Putin enacted a law ostensibly aimed at preventing the discrediting of the Russian armed forces in their operations to protect Russian interests and maintain international peace and security.<sup>730</sup> This law was approved prior by the Federation Council, which is chaired by Valentina Matviyenko. This law criminalizes calls against the use of Russian troops to protect Russian interests and calls for sanctions against Russia. Accordingly, individuals may face criminal penalties for referring to the “special military operation” as a “war” or “invasion.”<sup>731</sup>
558. On March 11, 2022, concluding the 521st Session of the Federation Council, Valentina Matviyenko exhorted members of the Federation Council to meet with Russians, including youth, and explain to them the goals of Russia’s “special military operation” in Ukraine, in accordance with guidelines provided to them. She also requested that members of the Federation Council share the people’s concerns with the Federation Council so as to allow for a swift response.<sup>732</sup>
559. On March 15, 2022, Sergei Shoigu reportedly wrote a personal appeal to the minister of culture, Olga Lyubimova, requesting the exclusion of Zelensky and Rodnyansky from Russia’s “cultural agenda.” He continued that the Ministry of Defense, as part of the conduct of the “special military operation,” was taking steps to form a positive general opinion of Russian citizens and to foster support for the country’s leadership and for the activities of the armed forces.<sup>733</sup>
560. The accused persons also secured the continuation of Russia’s acts of aggression by expressing and/or supporting Russia’s conditions for ceasing the use of force in Ukraine:
561. On February 17, 2022, in a media interview, Sergei Lavrov stated that the security of Europe depended on improving its position on stopping NATO expansion to the east and non-deployment of strike weapons.<sup>734</sup>

730 Federal Law No. 32-FZ “On Amendments to the Criminal Code of the Russian Federation and Articles 31 and 151 of the Code of Criminal Procedure of the Russian Federation,” March 4, 2022, <http://ips.pravo.gov.ru:8080/default.aspx?pn=0001202203040007>.

731 See, e.g., Radio Free Europe–Radio Liberty, “Russian Lawmakers OK Bill On ‘False News’ about Military Operations, in Further Curb on Media,” March 4, 2022, <https://www.rferl.org/a/russia-fake-news-military-invasion-independent-media/31735798.html>; Radio Free Europe–Radio Liberty, “Russian Nobel Laureate Muratov Doused with Red Paint by Unknown Attacker,” April 7, 2022, <https://www.rferl.org/a/russia-new-novaya-gazeta-europe-muratov/31791421.html?s=09>.

732 Federation Council, “521st meeting of the Federation Council—Transcript,” March 11, 2022, <http://council.gov.ru/activity/meetings/133821/transcript/>.

733 SVTV News, tweet, March 17, 2022, [https://twitter.com/svtv\\_news/status/1504468417595682820?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1504468417595682820%7Ctwgr%5E%7Ctwcon%5Es1\\_%ref\\_url=https%3A%2F%2Fwww.svoboda.org%2Fa%2Fverjte-tem-kto-obschaet-vas-ubitj-hroniki-repressiy-glazami-sotssetey%2F31759482.html](https://twitter.com/svtv_news/status/1504468417595682820?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1504468417595682820%7Ctwgr%5E%7Ctwcon%5Es1_%ref_url=https%3A%2F%2Fwww.svoboda.org%2Fa%2Fverjte-tem-kto-obschaet-vas-ubitj-hroniki-repressiy-glazami-sotssetey%2F31759482.html).

734 Euronews, “Lavrov and Di Maio—about the Situation in Ukraine,” February 17, 2022, <https://www.youtube.com/watch?v=eU8xYtPAztg>.

562. On March 11, 2022, in a press conference, Sergei Lavrov stated that Russia had made highly specific proposals, in the form of a legally binding draft document, to resolve the situation in Ukraine.<sup>735</sup>
563. On March 29, 2022, in a media interview, Valentina Matviyenko stated that she was not optimistic about negotiations between Russia and Ukraine, continuing that Russia was clear as to the basis on which an agreement may be reached, but the Ukrainian position was unclear.<sup>736</sup>

## THE ACCUSED PERSONS' MENTAL STATE

564. Each of the accused persons, Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov, is individually criminally responsible for the commission of the crime of aggression by planning, preparing, initiating, and/or executing Russia's acts of aggression.
565. At all relevant times, Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, Sergei Beseda, Sergei Lavrov, and Valery Gerasimov were aware of the factual circumstances that established that Russia's use of armed force against the sovereignty territorial integrity or political independence of another State was inconsistent with the UN Charter and that such acts of aggression constituted a manifest violation of the UN Charter.
566. The accused persons made statements directly evincing their knowledge of the factual circumstances surrounding Russia's use of armed force in Ukraine beginning February 24, 2022, or projecting that they are in a position to have acquired such knowledge:
567. On February 16, 2022, in an interview published on the Federation Council's website, Valentina Matviyenko stated that any Russian military action in Ukraine would be commensurate with the "scale of the aggression" by Ukraine in Donbas and the military-political situation that had arisen.<sup>737</sup>
568. On February 22, 2022, in a media interview, Sergei Lavrov opined that, under international law, the right to sovereignty need only be observed in relation to states that represent all the people living on their territory, and that Ukraine had ceased to do so since 2014.<sup>738</sup>

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735 Ministry of Foreign Affairs of the Russian Federation, "Foreign Minister Sergey Lavrov's Remarks and Answers to Media Questions Following Talks with Foreign Minister of Turkey Mevlut Cavusoglu and Foreign Minister of Ukraine Dmitry Kuleba," March 10, 2022, [https://mid.ru/en/foreign\\_policy/news/1803752/](https://mid.ru/en/foreign_policy/news/1803752/).

736 Interfax, "Matvienko Called the Condition for Stopping the Military Operation in Ukraine," March 29, 2022, <https://www.interfax.ru/russia/831901>.

737 Federation Council, "Russian Society Does Not Want War."

738 Interfax, "Lavrov Denied Ukraine the Right to Sovereignty," February 22, 2022, <https://www.interfax.ru/russia/823676>.

569. On March 5, 2022, at a meeting with Russian airline crew, Vladimir Putin stated that the Russian Ministry of Defense “has taken the path of destroying the military infrastructure of Ukraine, this part of the operation is almost completed.”<sup>739</sup>
570. On March 10, 2022, in a press conference following talks with Ukrainian Foreign Minister Dmitry Kuleba, Sergei Lavrov made assertions as to Russia’s military conduct in Ukraine. In particular, he claimed that the Russian military was taking steps to alleviate the suffering of civilians used as human shields by Ukraine, and that Russia continued to open humanitarian corridors daily.<sup>740</sup>
571. On March 11, 2022, at a meeting of the Security Council, Sergei Shoigu proposed that Russian forces in Donbas be given air defense equipment, including portable anti-aircraft missile systems and anti-tank and anti-aircraft systems.<sup>741</sup> He further suggested that the Western weapons seized in Ukrainian territory be delivered to them. Sergei Shoigu also suggested that Vladimir Putin allow volunteers from the Middle East to join Russian forces in Ukraine, with Vladimir Putin accepting this suggestion.<sup>742</sup>
572. On March 15, 2022, at a meeting on national security in the North Caucasus, Nikolai Patrushev remarked that the Russian operation in Ukraine was “proceeding in accordance with the plan.”<sup>743</sup>
573. On March 16, 2022, in a meeting on socio-economic support for the constituent entities of Russia, Vladimir Putin stated that the combat tactics drafted by the Russian Ministry of Defense and the General Staff had “fully justified itself” in the Ukraine context, and that Russian soldiers and officers were doing all they could to avoid civilian losses in Ukrainian cities.<sup>744</sup>
574. On March 28, 2022, in a media interview, Valentina Matviyenko stated that Russia’s “special operation” in Ukraine was going “according to plan,” and that its assigned tasks would be completed in full.<sup>745</sup>

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739 Interfax, “Putin Said That the Destruction of the Military Infrastructure of Ukraine Is Almost complete,” March 5, 2022, <https://www.interfax.ru/russia/826578>.

740 Itv, “Sergey Lavrov: Russia Wants to See Ukraine Demilitarized and Friendly,” March 10, 2022, [https://www.itv.ru/news/2022-03-10/423115-sergey\\_lavrov\\_rossiya\\_hochet\\_videt\\_ukrainu\\_demilitarizovannoy\\_i\\_druzhestvennoy](https://www.itv.ru/news/2022-03-10/423115-sergey_lavrov_rossiya_hochet_videt_ukrainu_demilitarizovannoy_i_druzhestvennoy).

741 Kremlin, “Meeting with Permanent Members of the Security Council,” March 11, 2022, <http://en.kremlin.ru/events/president/news/67960>.

742 Vedomosti, “Peskov Explained Shoigu’s Proposal to Involve Volunteers in a Special Operation in Ukraine,” March 11, 2022, <https://www.vedomosti.ru/politics/news/2022/03/11/913089-peskov-dobrovoltsev>.

743 Azerbaijan, “Abundance of Foreign Consultants in Kyiv.”

744 Kremlin, “Meeting on Socioeconomic Support for Regions.”

745 MKRU, “Matvienko Said That ‘the Special Operation in Ukraine Is Going According to Plan,’” March 28, 2022, <https://www.mk.ru/politics/2022/03/28/matvienko-zayavila-chto-specoperaciya-na-ukraine-idet-po-planu.html>.

575. On March 28, 2022, Valentina Matviyenko met with the chairman of Kazakhstan’s Parliament Senate and as reported by the Federation Council, updated him in detail on the causes and course of the “special operation” in Ukraine.<sup>746</sup>
576. On March 29, 2022, in a media interview, Sergei Shoigu observed that the main tasks of the first stage of the Russian military operation had been completed, and that the reduction in the combat potential of the Ukrainian armed forces would allow Russia to focus its attention and efforts on achieving the main goal of the operation, which was the “liberation” of Donbas.<sup>747</sup>
577. On April 5, 2022, as reported on the Federation Council’s website, Valentina Matviyenko stated that she was confident Russia would “successfully complete the special military operation in accordance with the plan,” and that Russian servicemen “accurately and precisely carry out the order to demilitarize and denazify Ukraine, treating the civilian population with care.”<sup>748</sup>
578. On April 7, 2022, in a media interview, Sergei Naryshkin opined that Russia was creating a multipolar world by directly challenging the system, to create a new world order.<sup>749</sup>
579. On April 11, 2022, in a televised broadcast, Sergei Lavrov reportedly announced an additional goal of the Russian “special operation” in Ukraine—to end U.S. dominance worldwide. He continued that the operation was “designed to put an end to the reckless expansion and reckless course towards the complete dominance of the United States and under them the rest of the Western countries in the international arena.”<sup>750</sup>
580. Additionally, the accused persons participated in meetings regarding developments in Russia’s use of armed force in Ukraine beginning February 24, 2022, indicating knowledge of the conduct of hostilities:
581. On February 27, 2022, Vladimir Putin met with Sergei Shoigu and Valery Gerasimov at the Kremlin, where he ordered that the Russian Army’s deterrence forces be put on high combat alert.<sup>751</sup>

746 Federation Council, “V. Matvienko Held a Meeting with the Chairman of the Senate of the Parliament of the Republic of Kazakhstan M. Ahsimbaev,” March 28, 2022, <http://council.gov.ru/events/news/134294/?hl=%D1%83%D0%BA%D1%80%D0%B0%D0%B8%D0%BD%D0%B0%20%D0%BC%D0%B0%D1%82%D0%B2%D0%B8%D0%B5%D0%BD%D0%BA%D0%BE>.

747 Valentyna Romanenko, “Shoigu: Ukraine Has ‘Suffered Significant Losses’ and It Is Time to ‘Liberate Donbas’ Again,” *Ukrayinska Pravda*, March 29, 2022, <https://www.pravda.com.ua/eng/news/2022/03/29/7335485/>.

748 Federation Council, “V. Matvienko: Our Servicemen.”

749 TASS, “Russia Creating Genuine Never-Before-Seen Multipolar World, Says Foreign Intel Chief,” April 7, 2022, <https://tass.com/politics/1434003>.

750 Bloknot, “Lavrov Named Another Target of the Apecial Operation Z, and This Is Not Ukraine,” April 11, 2022, <https://bloknot.ru/politika/lavrov-nazval-eshhe-odnu-tsel-spetsoperatsii-z-i-e-to-ne-ukraina-912608.html>.

751 Kremlin, “Meeting with Sergei Shoigu and Valery Gerasimov.”

582. On March 11, 2022,<sup>752</sup> the permanent members of the Security Council convened. At this meeting, Sergei Shoigu reported that Russian military action in Ukraine was proceeding as planned, and made suggestions on accepting volunteer fighters, delivery of seized weapons to Donbas, and reinforcing Russia’s western borders. Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, and Valentina Matviyenko attended the meeting.<sup>753</sup>
583. On March 18, 2022, the permanent members of the Security Council convened to discuss progress in the “special military operation” in Ukraine. Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, and Sergei Lavrov attended the meeting.<sup>754</sup>
584. On March 24, 2022, the permanent members of the Security Council convened to discuss progress in the negotiations with Ukraine. Sergei Shoigu also reported on the ongoing “special military operation,” and efforts by the Russian military to “provide humanitarian aid, ensure security and restore vital infrastructure in the liberated territories.” Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, and Sergei Lavrov attended the meeting.<sup>755</sup>
585. On April 7, 2022, the permanent members of the Security Council convened to discuss progress in the “special military operation” in Ukraine, including the need to strongly counteract any “information attacks” or sabotage. Vladimir Putin, Nikolai Patrushev, Sergei Shoigu, Sergei Naryshkin, Valentina Matviyenko, and Sergei Lavrov attended the meeting.<sup>756</sup>
586. In its merits judgment, the ECtHR noted that there were open admissions regarding Russia’s overall intent and motivation, including by Vladimir Putin, reflecting the deliberate and purposeful nature of the aggression. The ECtHR relied on these statements to understand the objective aims behind Russia’s actions and their impact on Ukraine’s territorial control and ability to uphold the European Convention on Human Rights.<sup>757</sup>

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752 Kremlin, “Meeting with Permanent Members of the Security Council,” March 11, 2022.

753 Kremlin, “Meeting with Permanent Members of the Security Council,” March 18, 2022, <http://en.kremlin.ru/events/president/news/68011>.

754 Kremlin, “Meeting with Permanent Members of the Security Council,” March 18, 2022.

755 Kremlin, “Meeting with Permanent Members of the Security Council,” March 24, 2022, <http://en.kremlin.ru/events/president/news/68044>.

756 Kremlin, “Meeting with Permanent Members of the Security Council,” April 7, 2022, <http://en.kremlin.ru/events/president/news/68155>.

757 *Ukraine and the Netherlands v. Russia*, Grand Chamber Judgment (Merits) of July 9, 2025, para 211.

# BELARUS'S DIRECT LIABILITY AND COMPLICITY IN RUSSIA'S 2022 FULL-SCALE INVASION OF UKRAINE

## BELARUS ALLOWED RUSSIA TO USE ITS TERRITORY FOR MILITARY OPERATIONS

### Pre-Invasion Military Exercises and Buildup

#### *The 2021 Russia-Belarus Union State Military Doctrine*

587. On November 4, 2021, just three months before the full-scale invasion of Ukraine, the 2021 Russia-Belarus Union State Military Doctrine was adopted by Russia and Belarus.<sup>758</sup> The doctrine was publicly released in February 2022, prior to Allied Resolve 2022, which took place from February 10–20, 2022.<sup>759</sup> The 2021 Union State Military Doctrine replaced the earlier version, which was signed into law on December 26, 2001.<sup>760</sup> Introducing the new doctrine facilitated deeper military integration between the armed forces of Russia and Belarus.<sup>761</sup>
588. On November 23, 2021, shortly after the signing of the new 2021 Russia-Belarus Union State Military Doctrine, Major-General Viktor Vladimirovich Gulevich,<sup>762</sup> the chief of the General Staff of the armed forces and first deputy minister of defense of Belarus, emphasized the perceived threat posed by its NATO neighbors and “Ukraine’s aggressive behavior toward Belarus,” which was creating a “belt of unfriendly states” around Belarus.<sup>763</sup>

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758 Belsat, “New Union Military Doctrine of Belarus and Russia Revealed,” February 10, 2022, <https://web.archive.org/web/20220210084230/https://belsat.eu/en/news/10-02-2022-new-union-military-doctrine-of-belarus-and-russia-revealed/>.

759 Anna Maria Dyner, “New Military Doctrine of the Union State of Belarus and Russia,” PIIA, February 15, 2022, <https://www.pism.pl/publications/new-military-doctrine-of-the-union-state-of-belarus-and-russia>; Roger McDermott, “New Belarus-Russia Military Doctrine 2021 and Allied Resolve 2022 (Part One),” *Eurasia Daily Monitor*, February 9, 2022, <https://jamestown.org/program/new-belarus-russia-military-doctrine-2021-and-allied-resolve-2022-part-one/>.

760 McDermott, “New Belarus-Russia Military Doctrine 2021.”

761 Anna Maria Dyner, “New Military Doctrine.”

762 Major-General Gulevich was relieved of his command and dismissed from the Belarusian military on May 10, 2024. President of the Republic of Belarus, “Viktor Gulevich Dismissed as Chief of General Staff,” Official Internet Portal of the President of the Republic of Belarus, May 10, 2024, <https://president.gov.by/en/events/viktor-gulevich-osvobozhden-ot-dolzhnosti-nachalnika-generalnogo-shtaba-vooruzhennyh-sil-1715507173>.

763 EADaily, “Kiev Needs War, but Not in Donbas, Rather with Belarus,” November 27, 2021, <https://eadaily.com/ru/news/2021/11/27/kievu-nuzhna-voyna-no-ne-na-donbasse-a-s-belorussiy>.

### *Joint Military Exercises: Allied Resolve 2022*

589. In early February 2022, Russia and Belarus conducted joint military exercises under the name Allied Resolve 2022, which reportedly involved around 30,000 Russian troops stationed on Belarusian territory, marking one of the largest Russian deployments to Belarus since the Cold War.<sup>764</sup> This includes much of Russia’s conventional combat power from the Eastern Military District, encompassing missile and artillery troop brigades, as well as other units such as air force and air defense,<sup>765</sup> ground forces, airborne forces (VDV), aerospace forces, and combat support and combat service support from other military districts, in addition to Rosgvardia (National Guard) units.<sup>766</sup> These exercises officially took place from February 10–20, 2022, and included combined arms maneuvers, air defense drills, and readiness tests of the Belarusian armed forces.<sup>767</sup>
590. The Belarusian and Russian governments characterized the exercises as defensive and necessary to test interoperability. However, multiple states and international organizations, including NATO, raised concerns that these drills could serve as a cover for a potential invasion of Ukraine. The European Parliament adopted a resolution condemning Russia’s military buildup around Ukraine and its use of Belarusian territory for such purposes.
591. Although the exercises were scheduled to end on February 20, 2022, a substantial portion of Russian forces remained in Belarus beyond this date.<sup>768</sup> Western intelligence officials noted that this continued presence contributed to the eventual launch of military operations into northern Ukraine on February 24, 2022.<sup>769</sup>

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- 764 Andrew Roth, “Russia Moves Troops to Belarus for Joint Exercises Near Ukraine Border,” *The Guardian*, January 17, 2022, <https://www.theguardian.com/world/2022/jan/17/russia-moves-troops-to-belarus-for-joint-exercises-near-ukraine-border>; Shaun Walker, “Russia and Belarus Military Drills Near Belarusian Border with Ukraine,” *The Guardian*, February 10, 2022, <https://www.theguardian.com/world/2022/feb/10/russia-belarus-military-drills-near-belarusian-border-ukraine>; Jens Stoltenberg, quoted in Politico, “NATO Chief: Russian Deployment in Belarus ‘Biggest Since the Cold War’ with Expected 30,000 Combat Troops,” Politico, February 3, 2022, <https://www.politico.eu/article/russia-nato-belarus-stoltenberg-military-buildup-ukraine/>.
- 765 Marina Shcherbakova, “The First Stage Is Nearing Completion,” *Krasnaya Zvezda*, February 7, 2022, <https://web.archive.org/web/20220217030802/http://redstar.ru/pervyj-etap-blizitsya-k-zaversheniyu/>.
- 766 Roger McDermott, “Chechen Rosgvardia Troops Head for Ukraine,” *Eurasia Daily Monitor*, February 16, 2022, <https://jamestown.org/program/new-belarus-russia-military-doctrine-2021-and-allied-resolve-2022-part-two/>; Aslan Doukaev, “Chechen Rosgvardia Troops Head for Ukraine,” *Eurasia Daily Monitor*, February 14, 2022, <https://jamestown.org/program/chechen-rosgvardia-troops-head-for-ukraine/>.
- 767 “The Joint Exercise ‘Allied Resolve–2022’ Is Taking Place on the Territory of the Republic of Belarus”, Ministry of Defence of the Russian Federation News, February 10, 2022; Robin Emott, Tom Balmforth and Vladimir Soldatkin, “Russia Holds Drills in Belarus as West Warns of ‘Dangerous Moment,’” Reuters, February 19, 2022, <https://www.reuters.com/world/europe/wrapup-1-russia-starts-belarus-military-drills-amid-new-diplomacy-ukraine-2022-02-10/>.
- 768 Al Jazeera, “Russia and Belarus Extend Military Drills amid Ukraine Tensions,” February 20, 2022, <https://www.aljazeera.com/news/2022/2/20/russia-and-belarus-extend-military-drills-amid-ukraine-tensions>.
- 769 Robin Wright, “Why Ukraine Is on a Precipice,” *The New Yorker*, February 15, 2022, <https://www.newyorker.com/news/daily-comment/why-ukraine-is-on-a-precipice>; Jim Garamone, “Ukraine Will Dominate Defense Secretary’s Europe Trip,” U.S. Department of Defense, February 15, 2022, <https://www.defense.gov/News/News-Stories/Article/Article/2935098/ukraine-will-dominate-defense-secretarys-europe-trip/>.

### *Satellite Imagery Evidence of Military Buildup*

592. Satellite imagery from January and February 2022 showed a significant Russian military buildup at multiple Belarusian locations, including Gomel, Rechitsa, and Luninets, all of which lie within close striking distance of the Ukrainian border.<sup>770</sup>
593. Satellite imagery confirmed large-scale movements of tanks, artillery, and support vehicles, indicating comprehensive operational readiness in those areas.
594. Specifically, on February 4, 2022, satellite images captured a troop housing area, vehicle park, and artillery deployments in Rechitsa, Belarus. The imagery showed a well-organized assembly of military equipment and personnel, underscoring the scale of the buildup in that area.<sup>771</sup> At Luninets airfield, also on February 4, 2022, satellite imagery identified the presence of ground attack aircraft, including Su-25s, along with S-400 air defense systems. The deployment of such advanced weaponry highlighted the strategic importance of this location in the context of the broader military buildup.<sup>772</sup> Reports from the Digital Forensic Research Lab on February 8, 2022, confirmed the establishment of Russian military camps in Yelsk, Rechitsa, and Luninets airfields. These camps housed a variety of military hardware, including tanks, infantry fighting vehicles, and artillery, further evidencing the comprehensive nature of the operational preparations in these Belarusian locales.<sup>773</sup>
595. NATO publicly expressed concerns over the size and composition of the forces observed in Belarus, noting a departure from historical norms regarding joint exercises between Russia and Belarus. In early 2022, NATO expressed significant concerns regarding the scale and nature of Russian military deployments in Belarus, highlighting deviations from historical norms associated with joint exercises between Russia and Belarus. The Union Resolve 2022 exercise, announced on January 17, 2022, was particularly notable. Unlike previous drills, this exercise implied scenarios involving potential aggression from the western and southern directions, suggesting Ukraine as a possible adversary.<sup>774</sup> NATO estimated that approximately 30,000 Russian troops were deployed to Belarus for these exercises, a figure significantly higher than typical deployments in past joint drills. This escalation raised alarm within NATO, as it represented a substantial increase in military presence near the alliance's eastern flank.

770 Tim Lister and Gianluca Mezzofiore, "New Satellite Images Show Continuing Russian Military Buildup on Three Sides of Ukraine," CNN, February 10, 2022, <https://edition.cnn.com/2022/02/10/europe/russia-military-buildup-images-intl/index.html>.

771 Reuters, "Satellite Images Show Build-Up of Russia Forces Near Ukraine," February 7, 2022, <https://www.reuters.com/news/picture/satellite-images-show-build-up-of-russia-idJPRTS58Z9T/>.

772 Reuters, "Satellite Images Show Troop Deployment to Belarus Border with Ukraine Ahead of Russian Drills," February 6, 2022, <https://www.reuters.com/world/satellite-images-show-troop-deployment-belarus-border-with-ukraine-ahead-russian-2022-02-06/>.

773 Digital Forensic Research Lab, "Russian War Report: New Evidence of Accelerated Military Build-Up Near Ukraine," February 8, 2022, <https://dfrlab.org/2022/02/08/russian-war-report-new-evidence-of-accelerated-military-build-up-near-ukraine/>.

774 Jakub J. Grygiel, "Becoming a Military District: Belarus between Russia and the West," European Union Institute for Security Studies, 2022, <https://www.iss.europa.eu/publications/briefs/becoming-military-district>.

596. The OSCE's SMM to Ukraine, while principally operating within Ukraine and focused on monitoring the security situation in Ukraine, reported on activities near the Ukrainian border, including areas adjacent to Belarus. For example, the OSCE's daily report from February 16, 2022, noted observations in the Chernihiv region, close to the Belarusian border.<sup>775</sup>

### *Belarus Provided Support Infrastructure for Russian Forces*

597. In the weeks leading up to the February 2022 invasion of Ukraine, Belarusian authorities permitted the establishment of various military facilities near the Ukrainian border to support Russian military operations. Satellite imagery from early February 2022 revealed new deployments of Russian military forces in areas close to the Ukrainian border, including the construction of field hospitals. Specifically, more than 100 vehicles and dozens of troop tents were observed at a small airfield in southern Belarus, approximately 20 kilometers from the border.<sup>776</sup>
598. Further reports indicated that in the town of Naroulya, near the Ukrainian border, a Russian field hospital was established in a former motor depot. Wounded Russian soldiers were transported from Ukraine to this facility for initial treatment before being moved to larger hospitals in Mazyr and Homel.<sup>777</sup> These developments suggest that the facilities were designed to support rapid deployment and sustainment of Russian troops, including medical treatment for battlefield casualties.
599. Indeed, Belarus allowed extensive use of its medical facilities to treat Russian military personnel wounded during the assault on Kyiv. Medical records from the Main Military Medical Directorate of the Russian Ministry of Defense reveal that hospitals in Gomel and Khoyniki treated 898 wounded Russian servicemen in February and March 2022 following combat operations in the Kyiv region. This medical support infrastructure was essential to Russia's ability to sustain military operations, as it enabled the treatment and potential redeployment of wounded personnel without requiring evacuation to Russian territory.<sup>778</sup>

775 OSCE SMM to Ukraine, "Daily Report 36/2022," February 16, 2022, [https://www.osce.org/files/2022-02-16%20Daily%20Report\\_ENG.pdf](https://www.osce.org/files/2022-02-16%20Daily%20Report_ENG.pdf).

776 Vishnu Som, "Satellite Pics: Russian Forces Just 20 Km From Ukraine, Field Hospitals Up," NDTV, February 23, 2022, <https://www.ndtv.com/world-news/ukraine-crisis-new-satellite-pics-fresh-russian-deployment-field-hospital-near-ukraine-2783748>.

777 Radio Free Europe–Radio Liberty, "In Belarusian Morgues and Hospitals, Clues to Russian Military Losses in Ukraine," Voice of America, March 20, 2022, <https://www.voanews.com/a/in-belarusian-morgues-and-hospitals-clues-to-russian-military-losses-in-ukraine-/6493074.html>.

778 Dzhulai and Savchuk, "Journalists Identified Russian Military Personnel." <https://www.radiosvoboda.org/a/skhemy-kyiyvshchyna-rosiyski-viys%CA%B9kovi-hospitali-bilorus/33438119.html>.

600. Belarus also provided logistical support by allowing the movement of Russian military convoys through its rail and road networks, effectively establishing corridors that enabled armored units and heavy artillery to move closer to the Ukrainian border. Belarus also provided logistical support by allowing the movement of Russian military convoys through its rail and road networks, effectively establishing corridors that enabled armored units and heavy artillery to move closer to the Ukrainian border. The integration of supply lines and field hospitals under Belarusian oversight was criticized by various EU officials as a direct facilitation of hostile actions against Ukraine.<sup>779</sup> Belarus also provided logistical support by allowing the movement of Russian military convoys through its rail and road networks, effectively establishing corridors that enabled armored units and heavy artillery to move closer to the Ukrainian border. The integration of supply lines and field hospitals under Belarusian oversight was criticized by various EU officials as a direct facilitation of hostile actions against Ukraine.<sup>780</sup>
601. The integration of supply lines and field hospitals under Belarusian oversight was criticized by various EU officials as a direct facilitation of hostile actions against Ukraine. In response to Belarus's involvement, the EU has imposed sanctions targeting Belarusian entities and individuals. These sanctions aim to address Belarus's role in enabling Russia's military aggression against Ukraine. The Council of the European Union has detailed these measures, highlighting Belarus's contributions such as allowing Russian missile launches from its territory and providing logistical support.<sup>781</sup>

## Invasion Launch Points from Belarusian Territory

### *Russian Attacks on Kyiv and Northern Ukraine from Belarus (February 24, 2022)*

602. On February 24, 2022, Russian forces launched attacks targeting Ukraine's capital, Kyiv, as well as broader areas in northern Ukraine, from multiple points along the Belarus-Ukraine border. These coordinated attacks from Belarusian territory facilitated rapid Russian advances into northern Ukraine during the initial phase of the invasion.

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779 Foreign, Commonwealth & Development Office and Department for Business and Trade, "Overseas Business Risk: Belarus," Gov.UK, August 19, 2021, <https://www.gov.uk/government/publications/overseas-business-risk-belarus/overseas-business-risk-belarus>.

780 Vladimir Isachenkov, "Russia and Belarus to Hold Joint War Games Early Next Year," Associated Press, December 29, 2021, <https://apnews.com/article/russia-belarus-drills-ukraine-war-putin-lukashenko-ad45228521bfe71964f7d70d5ff934a4>.

781 Council of the European Union, "EU Sanctions against Belarus," July 18, 2025, <https://www.consilium.europa.eu/en/policies/sanctions-against-belarus/>.

603. During the UN General Assembly’s 11th Emergency Special Session on February 28, 2022, Ukrainian representatives reported that Russian troops had crossed into Ukraine from multiple directions, including from Belarus. The permanent representative of Ukraine, Sergiy Kyslytsya, stated:

Deadly airstrikes dropped on civilians’ heads across the entire country and the Russian troops crossed Ukraine’s borders from the territory of Russia, Belarus.<sup>782</sup>

604. This statement highlighted the opening of significant fronts in the invasion, particularly from the north via Belarusian territory.

605. Several UN member states condemned the use of Belarusian territory as a staging ground for hostile action, highlighting Belarus’s facilitation in allowing Russian troops to cross the border into Ukraine. Several UN member states have condemned Belarus for allowing its territory to be used by Russian forces as a staging ground for the invasion of Ukraine.<sup>783</sup> This facilitation enabled Russian troops to cross the border into Ukraine, effectively opening a northern front in the conflict. The UN General Assembly addressed this issue in Resolution ES-11/1, adopted on March 2, 2022, which deplored Russia’s aggression against Ukraine and highlighted Belarus’s involvement. The resolution specifically “deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter” and noted “the involvement of Belarus in this illegal use of force against Ukraine.” The OHCHR also noted an escalation in violence from the northern axis entering Ukraine.

### *Russia’s 41st CAA and VDV Elements Staged in Belarus*

606. Under the OSCE Vienna Document, participating states are required to notify others of large-scale military exercises exceeding specified thresholds.<sup>784</sup> In early 2022, Russia and Belarus conducted the joint exercise Union Resolve 2022 in Belarus, after which Estonia, Latvia, Lithuania, and Ukraine sought information under the document’s transparency provisions.<sup>785</sup> The Russian ambassador to Belarus stated that the deployment did not present a concern.<sup>786</sup> Belarus also responded, stating that the number of troops was below the notification threshold, without providing

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782 United Nations, “General Assembly Holds Emergency Special Session on Ukraine,” UN News, February 28, 2022, <https://news.un.org/en/story/2022/02/1112912>.

783 Francesca Ebel, “Under Russia’s Deepening Shadow, Belarus Tries to Maintain Its Balancing Act,” *Washington Post*, March 16, 2025, <https://www.washingtonpost.com/world/2025/03/16/belarus-lukashenko-russia-opposition/>.

784 OSCE, “Ensuring Military Transparency—The Vienna Document,” <https://www.osce.org/fsc/74528>.

785 Sebastian Sprenger, “Ukraine Joins Baltic Nations in OSCE Query of Russian Troop Movements,” *Defense News*, February 11, 2022, <https://www.defensenews.com/global/europe/2022/02/11/ukraine-joins-baltic-nations-in-osce-query-of-russian-troop-movements/>.

786 Belarusian Telegraph Agency (BelTA), “Allied Resolve Exercise Does Not Exceed Vienna Document Limit,” February 9, 2022, <https://eng.belta.by/society/view/russian-ambassador-allied-resolve-exercise-does-not-exceed-vienna-document-limit-147633-2022>.

precise figures for the forces involved.<sup>787</sup> Belarus stated that the military exercise did not exceed the 13,000-troop threshold for Vienna Document notification, but publicly available information and assessments by the Latvian Ministry of Defense indicate that the Belarusian and Russian exercises involved significantly higher numbers of troops and equipment.<sup>788</sup>

607. Elements of Russia's 41st CAA, alongside units of the Russian VDV, were stationed in Belarus in the weeks leading up to the invasion. These forces subsequently crossed the border into the Kyiv and Chernihiv regions of Ukraine. According to the Royal United Services Institute, the deployment included mechanized infantry, armor, and airborne troops with substantial supporting artillery and air-defense assets.<sup>789</sup>
608. The strategic advantage of positioning the 41st CAA in Belarus allowed for a direct and rapid approach to Kyiv, bypassing much of Ukraine's northeastern defenses near the city of Chernihiv. Observers from the OSCE SMM noted that the presence of Russian airborne forces in Belarus—a traditionally rare occurrence—foreshadowed the potential for a combined arms assault on the Ukrainian capital.<sup>790</sup>

### *Use of Belarusian Airspace and Airfields for Airstrikes*

609. Russian Su-34 fighter bombers and Tu-22M3 long-range bombers utilized Belarusian airfields and airspace to conduct strikes on Ukrainian targets, including infrastructure in northern regions and, in some instances, farther south. These aircraft were reportedly equipped with precision-guided munitions and free-fall bombs, enabling attacks against Ukraine's air defenses, military command structures, and logistical hubs.

### *Facilitation by Belarus*

610. Belarus not only allowed its airspace to be used for these operations but also provided refueling, maintenance, and logistical support to Russian aviation units that were used to attack Ukraine. This practice constitutes direct involvement of Belarus in the armed aggression.

787 Radio Svaboda, "Belarus Says Union Resolve 2022 Military Exercise Does Not Exceed OSCE Threshold," February 14, 2022, <https://www.svaboda.org/a/31699241.html>.

788 Latvia Ministry of Defence, "After Not Receiving Information on the Military Exercise 'Union Resolve-2022,' the Baltic States Request an OSCE Meeting with Belarus," February 12, 2022, <https://www.mod.gov.lv/en/news/after-not-receiving-information-military-exercise-union-resolve-2022-baltic-states-request>.

789 Jack Watling and Nick Reynolds, "Operation Z: The Death Throes of an Imperial Delusion," RUSI Special Report, Royal United Services Institute for Defence and Security Studies, April 22, 2022, <https://static.rusi.org/special-report-202204-operation-z-web.pdf>.

790 OSCE, "Journal of the 84th (Special) Joint Meeting of the Permanent Council and Forum for Security Co-operation," 2022, <https://www.osce.org/files/f/documents/b/e/513844.pdf>.

### *Staging Ground for Battalion Tactical Groups*

611. According to Ukrainian military intelligence, at least 16 battalion tactical groups (BTGs) from the Russian armed forces used Belarus as a staging ground for the February 2022 invasion.<sup>791</sup> These BTGs typically consist of combined arms elements, including mechanized infantry, armor, artillery, air defense, and logistical support, giving them operational independence.<sup>792</sup>
612. Deploying such a concentration of BTGs in Belarus provided Russia with a forward operating base to launch mechanized assaults into Ukraine, particularly aimed at encircling Kyiv from the north and northwest. The Ukrainian General Staff indicated that this approach aimed to exert rapid pressure on the capital while diverting Ukrainian defensive resources away from eastern and southern theaters.<sup>793</sup>

## Continued Use of Territory Throughout the Conflict

### *Launch of Russian Ballistic Missiles from Belarus*

613. Russian forces have continued to launch ballistic missiles from Belarusian territory, including the Iskander-M missile system reportedly deployed at the Zyabrovka airfield in the Gomel Oblast.<sup>794</sup> Satellite imagery and open-source intelligence analyses indicated that Russian missile brigades maintained a presence at or near this airfield, enabling ongoing strikes against Ukrainian targets.<sup>795</sup>
614. On March 3, 2022, the U.S. Department of Defense stated that they had observed “more than 480 Russian missile launches, again, of all sizes and strengths” since the commencement of the full-scale invasion. According to the defense official, more than 70 of these launches originated from Belarus.<sup>796</sup>

791 George Barros, “Russia’s Quiet Conquest: Belarus,” Institute for the Study of War Backgrounder, January 15, 2025, <https://www.understandingwar.org/sites/default/files/Russia’s%20Quiet%20Conquest%20Belarus.pdf>.

792 Ben Connable, Abby Doll, Alyssa Demus, Dara Massicot, Clint Reach, Anthony Atler, William Mackenzie, Matthew Povlock, and Lauren Skrabala, “Russia’s Limit of Advance: Analysis of Russian Ground Force Deployment Capabilities and Limitations,” RAND Corporation Research Report, RR-2563-A, 2020, [https://www.rand.org/pubs/research\\_reports/RR2563.html](https://www.rand.org/pubs/research_reports/RR2563.html).

793 Peter Dickinson, “Belarus Bluff? Putin’s Only Ally Sparks Fears of Possible New Kyiv Offensive,” UkraineAlert, Atlantic Council, June 8, 2022, <https://www.atlanticcouncil.org/blogs/belarusalert/belarus-bluff-putins-only-ally-sparks-fears-of-possible-new-kyiv-offensive/>.

794 Jacob Magrid, “Airport in Central Ukraine Reportedly Targeted by Missile Fired from Belarus,” *Times of Israel*, February 27, 2022, [https://www.timesofisrael.com/liveblog\\_entry/airport-in-central-ukraine-reportedly-targeted-by-missile-fired-from-belarus/](https://www.timesofisrael.com/liveblog_entry/airport-in-central-ukraine-reportedly-targeted-by-missile-fired-from-belarus/); Yahoo News, “Explosion Rock Military Airfield in Belarus,” February 27, 2023, <https://www.yahoo.com/news/explosions-rock-military-airfield-belarus-002917512.html>.

795 Reuters, “Satellite Images Show Build-Up.”

796 Senior Defense Official, “Senior Defense Official Holds a Background Briefing,” United States Department of Defense, March 3, 2022, <https://www.defense.gov/News/Transcripts/Transcript/Article/2954139/senior-defense-official-holds-a-background-briefing/>.

615. In January 2025, Ukrainian President Volodymyr Zelensky alleged that during the first few days of the full-scale invasion, Belarusian President Alexander Lukashenko called him and said: “[I]t was not me, it was Putin who launched missiles from my territory.”<sup>797</sup> President Lukashenko denied having made the phone call and statements.<sup>798</sup>
616. Multiple UN member states have condemned the use of Belarusian territory for launching missiles into Ukraine. During UN Security Council discussions in mid-2022, representatives highlighted the role of Belarus in facilitating these strikes.<sup>799</sup> The OHCHR has also cataloged missile attacks launched from Belarus, noting civilian infrastructure damage in northern Ukraine.

### *Transfer of the Iskander-M tactical missile system to Belarus*

617. On July 26, 2022, Russian President Vladimir Putin stated in a broadcast on Russian television at the beginning of his meeting with Belarusian President Alexander Lukashenko in St. Petersburg, Russia, that Russia would soon be deploying the Iskander-M tactical missile system to Belarus: “In the coming months, we will transfer to Belarus Iskander-M tactical missile systems, which can use ballistic or cruise missiles, in their conventional and nuclear versions.”<sup>800</sup> President Lukashenko framed their transfer as a matter of self-defense: “Minsk must be ready for anything, even the use of serious weaponry to defend our fatherland from Brest to Vladivostok.”<sup>801</sup>

### *Deployment of the Oreshnik weapons system in Belarus*

618. On December 6, 2024, following a meeting of the Supreme State Council of the Union State, Russian President Vladimir Putin and Belarusian President Alexander Lukashenko addressed the media. President Lukashenko requested that President Putin deploy “new weapons systems, particularly Oreshnik, within Belarusian

797 RBC-Ukraine, “‘It Is Not Me, It Is Putin’—Zelensky says Lukashenko Apologized for Belarus Participation in War,” January 5, 2025, <https://newsukraine.rbc.ua/news/-it-s-not-me-it-s-putin-zelensky-says-lukashenko-1736109562.html>.

798 Vladimir Smirnov, “Lukashenko Denied Kiev’s Statements about Proposals to Hit the Mozyr Refinery,” TASS, January 26, 2025, <https://tass.ru/mezhdunarodnaya-panorama/22975133>.

799 UN Security Council, “Amid New Allegations of Atrocities in Ukraine Regions Returned to Government Control, Political Affairs Chief Tells Security Council Accountability Remains Crucial,” October 25, 2022, UN Doc SC/15074, <https://press.un.org/en/2022/sc15074.doc.htm>; UN Security Council, “Pointing to Dangerous Developments in Ukraine, Secretary-General Urges Cooperation with International Criminal Court as Security Council Tackles Accountability,” September 22, 2022, UN Doc SC/15036, <https://press.un.org/en/2022/sc15036.doc.htm>; UN Security Council, “New Deal to Resume Grain Exports through Ukrainian Ports ‘Beacon of Hope’ for Easing Global Food Crisis, United Nations Political Affairs Chief Tells Security Council,” July 28, 2022, UN Doc SC/14990, <https://press.un.org/en/2022/sc14990.doc.htm>; UN Security Council, “Amid Probable Atrocity Crimes, Ukraine Suffering Largest Human Displacement Crisis in World Today, Political Affairs Chief Tells Security Council,” June 28, 2022, UN Doc SC/14951, <https://press.un.org/en/2022/sc14951.doc.htm>.

800 DW, “Russia to Send Belarus Nuclear-Capable Missiles,” June 26, 2022, <https://www.dw.com/en/russia-to-send-nuclear-capable-missiles-to-belarus/a-62263179>.

801 Reuters, “Putin Promises Belarus Nuclear-Capable Missiles to Counter ‘Aggressive’ West,” June 25, 2022, <https://www.reuters.com/world/europe/russia-will-supply-belarus-with-iskander-m-missile-systems-putin-2022-06-25/>.

territory,” in line with the national security concept of the Union State.<sup>802</sup> President Lukashenko went on to say that it was contingent on “the singular condition: that the targets for these weapons shall be determined by the military and political leadership of Belarus.”<sup>803</sup>

619. On December 10, 2024, just days after the statement, there were additional media reports that the Oreshnik system would be deployed to Belarus, and according to President Lukashenko site selection was underway: “We have about 30 such sites. We will choose the ones closest to the targets. We will deploy them and choose targets. As you may have noticed, I laid down only one condition to Putin: Belarus will determine the targets, not Russia. But it will help us to use the weapons. In other words, we will press the button together, if necessary, God forbid. We will determine the targets ourselves.”<sup>804</sup>
620. By mid-March 2025, President Lukashenko announced that Belarus was manufacturing Oreshnik launch vehicles and that the Belarusian army would soon receive the Oreshnik system along with “tactical nuclear weapons” that had already been transferred to them.<sup>805</sup> The weapon systems would be integrated into the joint Russian-Belarusian regional air defense system.<sup>806</sup>

### *Use of Belarusian Rail Network to Supply Russian Forces*

621. Belarus has permitted Russian forces to utilize its rail infrastructure for transporting equipment, ammunition, and personnel to Ukraine, resulting in a roughly 30 percent increase in military-related freight traffic since February 2022. Independent labor union sources and logistics tracking organizations corroborate this surge, suggesting that Belarusian authorities have prioritized military rail movements.<sup>807</sup>
622. The European Union has consistently condemned Belarus’s role in facilitating Russian military logistics during the invasion of Ukraine. In response, the EU has imposed sanctions targeting Belarusian officials and entities involved in these activities. Notably, the head of the Belarusian Railway, Vladimir Mikhailovich Morozov, was included in the sanctions list due to his involvement in coordinating the transportation of Russian military personnel and equipment through Belarusian rail networks.<sup>808</sup>

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802 Vladimir Putin, “Address by the President of the Russian Federation,” media statements, December 6, 2024, <http://en.kremlin.ru/events/president/news/75782>.

803 Vladimir Putin, “Address by the President of the Russian Federation.”

804 BelTA, “Lukashenko: Belarus Is Choosing Sites for Oreshnik,” December 10, 2024, <https://eng.belta.by/president/view/lukashenko-belarus-is-choosing-sites-for-oreshnik-163803-2024/>.

805 BelTA, “Belarus to Finish Making Launch Vehicles for Oreshnik Missile by Year End”, March 14, 2025, <https://eng.belta.by/president/view/belarus-to-finish-making-launch-vehicles-for-oreshnik-missile-systems-by-year-end-166260-2025/>.

806 BelTA, “Belarus to Finish Making Launch Vehicles.”

807 BelSAT, “Belarusian Railway Workers Report That Secret Training of Military Troop Transfer Is Taking Place,” February 27, 2025, <https://en.belsat.eu/85308298/belarusian-railway-workers-report-that-secret-training-of-military-troops-transfer-is-taking-place>.

808 Railway Supply, “The Head of the Belarusian Railway Has Been Included in the Sanctions List,” June 26, 2023, <https://www.railway.supply/en/the-head-of-the-belarusian-railway-has-been-included-in-the-sanctions-list>.

623. Furthermore, the EU has acknowledged that Belarus's actions, such as permitting the transportation of Russian military personnel and heavy weapons via its rail and road networks into Ukraine, have directly contributed to the escalation of the conflict.<sup>809</sup>

## Continued Use of Belarusian Airspace and Airfields after Withdrawal from Northern Ukraine

624. Even after Russian ground forces withdrew from northern Ukraine in late March and April 2022, Belarus continued to provide logistical support by allowing use of its airspace and airfields for transport flights and strategic operations. Open-source flight tracking data indicated frequent Russian military cargo flights routing through Belarusian bases, supplying frontline Russian units with spare parts, ammunition, and reinforcements.
625. The OSCE reported that Russian military aviation continued to transit Belarusian airspace, sometimes launching support missions for operations in eastern and southern Ukraine. NATO officials similarly identified Belarus as a significant logistical hub for Russia, describing it as a “launchpad” and “safe haven” for Russian air assets.

## *Sustained Russian Military Presence in Belarus*

626. Belarus has permitted Russian forces to maintain a sizable military presence within its borders. As of early 2023, intelligence assessments estimated that between 10,000 and 15,000 Russian troops remained stationed in Belarus. These forces included mechanized units, air defense detachments, and logistical battalions capable of quick deployment to neighboring regions of Ukraine.<sup>810</sup>
627. Multiple Western governments and the EU have condemned Belarus's ongoing role as a host and facilitator of Russian military activities.<sup>811</sup> The UN General Assembly, in discussions pertaining to the continued hostilities, noted Belarus's involvement and called upon Minsk to refrain from offering further assistance to Russian combat operations.<sup>812</sup>

809 Council Decision (CFSP) 2022/354 amending Decision 2014/145/CFSP concerning restrictive measures in response to actions undermining the territorial integrity, sovereignty and independence of Ukraine, 2022, OJ L66/1, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022D0354>.

810 Radio Free Europe–Radio Liberty, “Belarus Dismantling Three Russian Training Grounds, Satellite Images Show,” Voice of America, March 20, 2022, <https://www.rferl.org/a/belarus-dismantling-russian-training-grounds-satellite-images/32492923.html>.

811 Council of the European Union, “Belarus’ Involvement in Russia’s War of Aggression Against Ukraine: New EU Restrictive Measures Target Trade, Services, Transport and Anti-Circumvention,” June 29, 2024, <https://www.consilium.europa.eu/en/press/press-releases/2024/06/29/belarus-involvement-in-russia-s-war-of-aggression-against-ukraine-new-eu-restrictive-measures-target-trade-services-transport-and-anti-circumvention/>; Council of the European Union, “Belarus’ Role in the Russian Military Aggression of Ukraine: Council Imposes Sanctions on Additional 22 Individuals and Further Restrictions on Trade,” March 2, 2022, <https://www.consilium.europa.eu/en/press/press-releases/2022/03/02/belarus-role-in-the-russian-military-aggression-of-ukraine-council-imposes-sanctions-on-additional-22-individuals-and-further-restrictions-on-trade>; U.S. Department of the Treasury, “Treasury Sanctions Belarusian Individuals and Entities Supporting Russia’s War Against Ukraine,” August 9, 2024, <https://home.treasury.gov/news/press-releases/jy2533>.

812 UN General Assembly, “General Assembly Overwhelmingly Adopts Resolution Demanding Russian Federation Immediately End Illegal Use of Force in Ukraine, Withdraw All Troops,” March 2, 2022, <https://press.un.org/en/2022/ga12407.doc.htm>.

### *Logistical and Material Support Provided by Belarus*

628. Belarus has provided Russian forces with extensive access to its railway network for the transportation of military equipment and supplies. The Belarusian Hajun Project, an independent monitoring group, has documented numerous instances of Russian military cargo trains operating within Belarus. For example, in April 2022, there was intensive movement of Russian armed forces equipment by rail, with trains loaded with military equipment observed at various stations, including Kalinkavichy and Khoyniki.<sup>813</sup>
629. Additionally, sources close to the Belarusian railway reported expectations of large transfers of Russian military equipment, ammunition, and personnel into Belarus by rail. These movements have included tanks, armored vehicles, and artillery systems transported toward staging areas near the Ukrainian border.<sup>814</sup>
630. During emergency sessions of the UN General Assembly in early 2022, member states expressed alarm at Belarus's role in facilitating Russian military operations against Ukraine. The General Assembly adopted Resolution ES-11/1 on March 2, 2022, which "deplores the involvement of Belarus in this illegal use of force and calls upon it to abide by its international obligations."
631. The European Union also condemned Belarus's cooperation with Russia in the aggression against Ukraine. In response, the EU expanded its sanctions regime against Belarus, targeting individuals and entities involved in supporting Russian military actions. These measures included restrictions on the Belarusian railway sector, reflecting concerns over its role in facilitating the transport of Russian military personnel and equipment.<sup>815</sup>

### *Role of Belarusian Railways in Transporting Military Equipment*

632. The Belarusian state-owned railway company, Belarusian Railways (BŽD), has played a significant role in facilitating the movement of Russian military equipment, ammunition, and personnel to strategic locations near Ukraine's northern border.
633. In response to Belarus's involvement in Russia's invasion of Ukraine, the U.S. Department of the Treasury imposed sanctions targeting key Belarusian entities and individuals. On February 24, 2022, the treasury's OFAC issued Russia-related Directives

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813 Belarusian Hajun Project, "Situation Report on Military Activity on the Territory of Belarus for April 10," April 10, 2022, <https://motolko.help/en-news/situation-report-on-military-activity-on-the-territory-of-belarus-for-april-10-by-hajun-project/>.

814 Belarusian Hajun Project, "Situation Report on Military Activity on the Territory of Belarus for March 19," March 19, 2022, <https://motolko.help/en-news/situation-report-on-military-activity-on-the-territory-of-belarus-for-march-19-by-hajun/>.

815 Council of the European Union, "EU Sanctions Against Belarus."

2 and 3 under Executive Order 14024, which included measures against Belarusian entities supporting the Russian military aggression.<sup>816</sup>

634. There is substantial evidence indicating that BŽD has played a significant role in transporting military equipment and supplies to Russian forces operating in Ukraine. For example, the Community of Belarusian Railway Workers has reported on the movement of Russian military cargo through Belarusian rail networks, highlighting the transportation of various military assets, including heavy artillery, toward the Ukrainian border.<sup>817</sup> These reports suggest a coordinated effort to ensure a sustained flow of material to Russian forces. Additionally, open-source intelligence analyses have documented increased military rail traffic within Belarus, further corroborating claims of BŽD's involvement in facilitating Russian military operations.<sup>818</sup> These analyses have observed the movement of tanks, armored vehicles, and other heavy weaponry via Belarusian railways toward staging areas near Ukraine.

### *Maintenance and Repair of Transportation Infrastructure*

635. Belarusian authorities have undertaken maintenance and emergency repairs on key railways and bridges that were reportedly damaged by sabotage actions carried out by anti-war activists seeking to disrupt Russian supply lines. Multiple incidents of rail sabotage were reported between March and May 2022, targeting segments critical for Russian troop and equipment transit.<sup>819</sup>

### *Use of Multiple Railway Stations for Russian Military Transports*

636. By analyzing satellite imagery and open-source intelligence, the Center for Strategic and International Studies confirmed that at least 16 railway stations across Belarus were used to facilitate Russian military transports between February and December 2022. These stations are located in or near regions including Gomel, Brest, and Minsk Oblasts, serving as transit hubs and storage depots for heavy weaponry.<sup>820</sup>

816 Office of Foreign Assets Control, "Russia-Related Designations; Belarus Designations; Issuance of Russia-Related Directive 2 and 3; Issuance of Russia-Related and Belarus General Licenses; Publication of New and Updated Frequently Asked Questions," U.S. Department of the Treasury, February 24, 2022, <https://ofac.treasury.gov/recent-actions/20220224>.

817 Belsat, "Belarusian Railway Workers Report."

818 Motolko Help, "Situation Report on Military Activity on the Territory of Belarus for April 10 by Hajun Project," <https://motolko.help/en-news/situation-report-on-military-activity-on-the-territory-of-belarus-for-april-10-by-hajun-project/>; Motolko Help, "Situation Report on Military Activity on the Territory of Belarus for March 19 by Hajun Project," <https://motolko.help/en-news/situation-report-on-military-activity-on-the-territory-of-belarus-for-march-19-by-hajun/>; Center for Strategic and International Studies (CSIS), "Russia's Gamble in Ukraine," January 2022, <https://www.csis.org/analysis/russias-losing-hand-ukraine> (discussing the deployment of Russian forces in Belarus, highlighting areas such as Brest, Pinsk, Mazyr, Yelsk, Rechytsa, and Gomel).

819 Liz Sly, "The Belarusian Railway Workers Who Helped Thwart Russia's Attack on Kyiv," Washington Post, April 23, 2022, <https://www.washingtonpost.com/world/2022/04/23/ukraine-belarus-railway-saboteurs-russia/>.

820 CSIS has analyzed Russian military movements and buildups in Belarus during this period. For instance, their brief titled "Russia's Gamble in Ukraine," published in January 2022, discusses the deployment of Russian forces in Belarus, highlighting areas such as Brest, Pinsk, Mazyr, Yelsk, Rechytsa, and Gomel. Seth G. Jones, Joseph S. Bermudez Jr., and Philip G. Wasielewski, "Russia's Losing Hand in Ukraine," Center for Strategic & International Studies, February 18, 2022, <https://www.csis.org/analysis/russias-losing-hand-ukraine>.

637. The broad network of railway stations in Belarus has enabled Russia to rapidly shift forces along the northern front, thereby reducing operational bottlenecks and ensuring a continuous supply chain to the Ukrainian border. The European Union has condemned Belarus's cooperation with Russia in this context, noting that such logistical support has facilitated the transportation of Russian military personnel and heavy weapons, tanks, and military transporters into Ukraine. This facilitation has allowed Russia to replenish frontline units and reposition equipment for offensives in eastern and southern Ukraine.<sup>821</sup>
638. According to reports from the Belarusian Hajun Project, Belarus has supplied substantial quantities of ammunition to Russia, totaling approximately 131,582 tons between January 2022 and February 2023. This transfer included munitions from storage facilities such as the 43rd Missile and Ammunition Arsenal near Dobrush, the 46th Missile and Ammunition Arsenal near Bronnaya Hara, and the 1405th Artillery Base near Asipovichy.<sup>822</sup>
639. Additionally, in August 2022, the Ukrainian military's National Resistance Center reported that Belarus planned to transfer 12,000 tons of ammunition to Russia by the end of that month.<sup>823</sup>
640. The UN General Assembly has expressed concerns regarding Belarus's involvement in the conflict in Ukraine. In Resolution ES-11/1, adopted on March 2, 2022, the assembly "deplores the involvement of Belarus in this illegal use of force and calls upon it to abide by its international obligations."<sup>824</sup>
641. The European Union has also condemned Belarus's support for Russia's military aggression against Ukraine. The EU's official stance is that it "strongly condemns the continued support provided by the Lukashenko regime to Russia's military aggression against Ukraine and calls on Belarus to refrain from such actions and to abide by its international obligations."

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821 Council of the European Union, "EU Sanctions Against Belarus."

822 Motolko Help, "Over 13,000 Tons in a Year, the Lukashenko Regime Supplies Russia with Ammunition which Is Transported to Crimea and the Area Bordering Georgia," Hajun Project, March 19, 2022, <https://motolko.help/en-news/over-130000-tons-in-a-year-the-lukashenko-regime-supplies-russia-with-ammunition-which-is-transported-to-crimea-and-the-area-bordering-georgia/>.

823 "Defence Intelligence: Russia Plans to Remove 12,000 Tons of Ammunition from Belarus by the End of August," *Odessa Journal*, August 4, 2022, <https://odessa-journal.com/defence-intelligence-russia-plans-to-remove-12000-tons-of-ammunition-from-belarus-by-the-end-of-august>.

824 Council of the European Union, "EU Sanctions Against Belarus."

### *Repair of Damaged Russian Military Equipment*

642. Belarusian defense companies have repaired damaged Russian military vehicles, with at least 65 damaged Russian tanks and armored vehicles observed at the 140th Repair Plant in Borisov between April and September 2022. Satellite imagery and open-source intelligence analyses corroborate increased activity at the facility, including the transport of Russian vehicles for overhauls and refitting.<sup>825</sup>
643. Furthermore, the 140th Repair Plant's official website outlines its specialization in the manufacture, overhaul, and modernization of armored weapons and equipment, including tanks and armored vehicles.<sup>826</sup>
644. By restoring key assets such as tanks, infantry fighting vehicles, and armored personnel carriers, these repair operations have contributed to Russia's capacity to reconstitute frontline units, especially after significant losses in the early months of the invasion. The OSCE, in its periodic monitoring reports, has noted the logistical value of Belarusian support in maintaining Russian equipment readiness.

### **Increased Production of Components for Russian Weapon Systems**

645. Belarusian military industries reportedly escalated production of components used in Russian weapon systems, with exports of these components to Russia increasing by 320 percent since February 2022. Although specifics remain undisclosed for security reasons, open-source data suggest that these components include electronics, targeting equipment, and sub-assemblies for armored vehicles:
- According to Stop Wapenhandel, approximately 30 percent of Belarusian arms exports are directed to Russia, primarily consisting of components. This cooperation has reportedly intensified since February 2022.<sup>827</sup>
  - Furthermore, investigations by the Belarusian Investigative Center reveal that a Belarusian state-owned enterprise has been supplying Russia with microchips crucial for missile production, utilizing Western-manufactured equipment, components, and raw materials, despite international sanctions.<sup>828</sup>

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825 Vadim Kushnikov, "Belarusian 140th State Plant Involved in Russia Military Repairs," *Militarnyi*, October 8, 2024, <https://militarnyi.com/en/news/belarusian-140th-state-plant-involved-in-russian-military-repairs/>.

826 Joint Stock Company 140 Repair Plant, "About Us," <https://140zavod.by/en/kompaniya/>.

827 Stop Wapenhandel, "Belarus: Arms Industry and Arms Trade—An Introduction," April 20, 2023, <https://stopwapenhandel.org/belarus-arms-industry-and-arms-trade-an-introduction/>.

828 Support4Partnership, "Belarusian Firm Providing Russia with Military-Quality Microchips," February 5, 2025, <https://support4partnership.org/en/news/belarusian-firm-providing-russia-with-military-quality-microchips>.

- Additionally, reports indicate that Chinese companies have been exporting military equipment to Belarusian firms even after sanctions were imposed by Europe and the United States. This equipment is utilized in the production of weapons, some of which are supplied to the Russian armed forces.<sup>829</sup>
646. The European External Action Service has noted in its communications that Belarus is playing a pivotal role in circumventing technology sanctions imposed on Russia. Various UN member states have raised the issue at the Security Council, arguing that Belarus's industrial support allows Russia to replenish and modernize its hardware, despite international restrictions.<sup>830</sup>

## BELARUS OFFICIALS' RESPONSIBILITY FOR THE CRIME OF AGGRESSION

647. In sum, Belarus materially supported Russia's military operations against Ukraine by permitting the use of Belarusian territory, infrastructure, and airspace for Russian troop deployment and missile launches, thereby facilitating the conduct of armed aggression by the Russian Federation. These actions definitively constitute a collective act of aggression, as Belarus's support for the Russian Federation directly contributed to the unlawful use of force against the territorial integrity and political independence of Ukraine. Belarus officials therefore may be directly liable for the crime of aggression under Rome Statute article 8 *bis* (2)(f), since it provided "aid or assistance" in the commission of the act of aggression, by allowing the use of its territory. In the alternative, it is complicit in the Russian Federation's acts of aggression.
648. The actions of senior Belarusian officials, including President Alexander Lukashenko, Minister of Defense Viktor Khrenin, and Chief of the General Staff Viktor Gulevich, constitute acts of aggression as defined in Article 8 *bis* 2(f) of the Rome Statute. These officials each exercised authority over Belarus's political, military, and logistical infrastructure, which was knowingly used to support Russia's unlawful use of force against Ukraine commencing on February 24, 2022.

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829 Vadim Kushnikov, "China Supplies Military Equipment to Belarusian Companies," *Militarnyi*, July 24, 2024, <https://militarnyi.com/en/news/china-supplies-military-equipment-to-belarusian-companies/>.

830 European Commission, "EU Further Extends the Scope of Sanctions on Belarus to Fight Circumvention", June 29, 2024, [https://enlargement.ec.europa.eu/news/eu-further-extends-scope-sanctions-belarus-fight-circumvention-2024-06-29\\_en](https://enlargement.ec.europa.eu/news/eu-further-extends-scope-sanctions-belarus-fight-circumvention-2024-06-29_en).

649. President Alexander Lukashenko, as head of state and commander in chief of the Belarusian armed forces, exercised effective control over the decision to allow Belarusian territory to be used as a staging ground for Russia's invasion. Lukashenko's public statements—before and after the invasion—confirm his awareness of and support for Russia's military campaign. Notably, he hosted joint military exercises with Russia (Allied Resolve 2022), authorized the continued presence of Russian troops after the scheduled end of the drills on February 20, 2022, and acknowledged the strategic value of Belarusian territory in supporting Russian operations. These acts, undertaken in full knowledge of their purpose, constitute participation in the planning and execution of aggression.
650. Minister of Defense Viktor Khrenin exercised command authority over the Belarusian military and oversaw its integration with Russian forces during the lead-up to and during the invasion. Khrenin directly facilitated the deployment of Russian troops, including air defense, mechanized infantry, and airborne units, across Belarusian territory. He issued joint defense statements with Russian Defense Minister Sergei Shoigu, endorsed the 2021 Union State Military Doctrine, and participated in events related to the joint command structure. His active role in structuring Belarus's military support to Russia demonstrates his complicity in enabling the unlawful use of force.
651. Chief of the General Staff Viktor Gulevich was directly involved in operational planning and coordination with Russian military leadership. Prior to the invasion, he made public declarations alleging threats from Ukraine, thereby manufacturing pretexts for the joint exercises and deployments. Satellite imagery and intelligence reports confirm that under Gulevich's command, Belarusian infrastructure was used to house and support thousands of Russian troops and their equipment. The forward staging of combat units, artillery, and missile systems occurred under his direct authority.

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# CONCLUSION

652. The evidence presented in this Memorandum for Prosecution demonstrates that the Russian Federation has committed multiple acts of aggression against Ukraine since 2014, culminating in the full-scale invasion beginning in February 2022, and continuing to this day. These acts constitute manifest violations of the UN Charter by their character, gravity, and scale.
653. The named Russian officials bear individual criminal responsibility for planning, preparing, initiating, and executing these acts of aggression.
654. Belarus officials also bear individual criminal responsibility for their role in enabling and sustaining Russia's unlawful use of force.
655. Accountability for these grave breaches of international law is essential to uphold the foundational principles of the post-1945 international legal order.

## **OPEN SOCIETY** JUSTICE INITIATIVE

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