

Dear Chairmen of the Commission, distinguished members, colleagues,

Thank you for convening this urgent and important hearing, and for the opportunity to testify on behalf of the Ukrainian Bar Association (UBA) and its Human Rights Institute.

Since 2022, the UBA has been actively advocating for accountability for war crimes, crimes against humanity, genocide, and the crime of aggression committed in and against Ukraine. While all international accountability mechanisms have been activated in response to the war, significant gaps remain, creating a risk of impunity.

The International Criminal Court continues its investigation into war crimes, crimes against humanity, and genocide committed in Ukraine since 2013. It has issued arrest warrants against the President of the Russian Federation and the Commissioner for Children's Rights for the war crime of unlawful deportation and transfer of Ukrainian children, as well as against Russian military officials implicated in attacks against civilians and civilian infrastructure. The ICC remains the central institution for establishing individual criminal responsibility. However, in practice, it can address only a handful of cases, focusing on those most responsible. At the same time, it is unable to exercise jurisdiction over one of the four core international crimes—the crime of aggression—in this situation.

The International Court of Justice is examining a dispute under the Genocide Convention. Importantly, the Court is not determining whether Russia has committed genocide; rather, it is addressing Russia's unfounded allegations that Ukraine committed genocide and the legal consequences of invoking such claims. In its provisional measures, the Court ordered the Russian Federation to immediately suspend military operations—an order that has been blatantly disregarded.

Earlier in 2024, the ICJ delivered its judgment in a separate case concerning terrorism financing and racial discrimination. The Court found certain violations by Russia; however, the judgment also demonstrates the structural limits of the Court's treaty-based jurisdiction. While it can establish specific violations, it is not equipped to address the core illegality of the war itself—leaving a critical accountability gap.

In July 2025, the European Court of Human Rights delivered a landmark judgment, finding widespread and systematic human rights violations by Russia dating back to 2014. Among other findings, the Court established an administrative practice of transferring Ukrainian children to Russia and facilitating their adoption there, in violation of multiple provisions of the European Convention on Human Rights. It further required Russia to cooperate in establishing an independent international mechanism to identify these children and ensure their safe return.

Crucially, the Court also recognized that Russia's rhetoric, policies, and conduct reflect a broader objective: the destruction of Ukraine as an independent sovereign state and subject of international law. This judicial recognition is of profound importance. **It brings us directly to the central gap in the current accountability framework: the crime of aggression.**

The recently established Special Tribunal for the Crime of Aggression against Ukraine is designed to address this leadership crime. An agreement on its establishment has been concluded between Ukraine and the Council of Europe. It is essential that states from all regions of the world join and support this initiative.

The importance of prosecuting aggression is not new. As Robert H. Jackson stated at the Nuremberg Trials, aggression is "the supreme international crime," because it contains within itself the accumulated evil of all others. Today, we are once again confronted with the need to give effect to that principle.

We urge the international community to ensure that the Tribunal becomes operational without delay, ideally in 2026. Practical steps have already been identified by leading experts, including my fellow co-witness David Crane. These include the prompt appointment of the Registrar and the Prosecutor, and the effective use of evidence collected by the International Centre for the Prosecution of the Crime of Aggression under Eurojust.

Dear members of the Commission, supporting accountability for the crime of aggression in Ukraine is fully aligned with the mandate of this Commission—to promote, defend, and advance human rights globally. Ensuring accountability for the gravest violations continues the legacy of Tom Lantos and reinforces the principle that such crimes must not go unanswered.

In light of the above, I respectfully urge this Commission to support several key steps:

- Urge United States authorities to join the Enlarged Partial Agreement on the establishment of the Tribunal, thereby setting an example for other states;
- Provide financial support to ensure the Tribunal's effective launch and initial functioning;
- Support national-level accountability efforts, which will address the vast majority of crimes;
- Strengthen investigations of war crimes committed in Ukraine under the principle of universal jurisdiction;
- Ensure that the identification and return of all Ukrainian children unlawfully deported or transferred by Russia is treated as a non-negotiable priority in any diplomatic engagement.

Thank you once again for your attention and your continued support. The Ukrainian Bar Association remains at your disposal for any further information or cooperation.