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“Accountability Challenges for the Crime of Aggression: Assessing Legal and Political
Mechanisms in Response to Russia's Invasion of Ukraine”

Author: Sofia Naziroglou
Supervisor: Laura Ínigo Alvarez

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Abstract

The Russian invasion of Ukraine, along with the debate regarding the crime of aggression has exposed the structural limitation of international law in ensuring accountability for grave violations. Despite the prohibition on the use of force enshrined in the United Nations (UN) Charter, the enforcement methods that can be used against states committing acts of aggression are inadequate. This thesis aims to assess the extent to which existing legal and political mechanisms are capable of ensuring accountability for the crime of aggression in the context of Ukraine and to examine whether the responses of the European Union (EU) and North Atlantic Treaty Organization (NATO) can operate as complementary forms of accountability. The analysis focuses on the development of the crime of aggression in international law, the jurisdictional constraints of the International Criminal Court (ICC), the legal and political debate surrounding the establishment of a Special tribunal and the role of EU and NATO responses, alongside the broader political constraints affecting enforcement. The findings suggest that the ICC's capacity to address the crime of aggression remains significantly constrained, particularly due to the jurisdictional and political limitations. Accountability processes are therefore heavily shaped by geopolitical considerations and power asymmetries. In this context, the paralysis of the United Nations Security Council (UNSC) created space for regional organisations such as the EU and NATO to assume a leading role in responding to aggression. Through sanctions, political coordination, military assistance and diplomatic pressure, these organisations contribute to accountability indirectly, functioning as complementary rather than judicial accountability mechanisms. The proposal for a Special Tribunal reflects an attempt to address existing enforcement gaps but also illustrates the tension between legal design and political feasibility. The thesis concludes that the main challenge of the international criminal law lies not in the absence of legal norms, but in the persistent gap between normative aspirations and political reality, which continues to shape the effectiveness and equality of accountability mechanisms.

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Abbreviations

ASP – Assembly of State Parties

CoE – Council of Europe

CFSP – Common Foreign and Security Policy

EPA – Economic Partnership Agreement

EU – European Union

EUAM – European Union Advisory Mission

GDP – Gross Domestic Product

ICC – International Criminal Court

ICJ – International Court of Justice

ICPA – International Centre for the Prosecution of the Crime of Aggression against Ukraine

IEA – International Energy Agency

ILC – International Law Commission

IMF – International Monetary Fund

IMT – International Military Tribunal

IPEF – Indo-Pacific Economic Framework

NATO – North Atlantic Treaty Organization

NRF – NATO Response Force

OECD – Organisation for Economic Co-operation and Development

OTP – Office of the Prosecutor

PCA – Partnership and Cooperation Agreement

PCIJ – Permanent Court of International Justice

RAP – Readiness Action Plan

SOF – Special Operations Forces

SWGCA – Special Working Group on the Crime of Aggression

SWIFT – Society for Worldwide Interbank Financial Telecommunication

UK – United Kingdom

UNGA – United Nations General Assembly

UN – United Nations

UNSC – United Nations Security Council

US – United States

VJTF – Very High Readiness Joint Task Force

WWI – World War 1

WWII – World War 2

Introduction

Background and Context of the Russia-Ukraine War

“We are fighting not only for Ukraine, but for the rule of law, for justice and for the world that believes in human rights” declared by President Volodymyr Zelenskyy in 2022. This statement illustrates that the war in Ukraine is not merely a military conflict, but also a significant challenge to the rule of law, accountability and human rights. The rule of law establishes that all actors, including states, must operate under the law¹. Similarly, the principle of accountability is the obligation for states and individuals to take responsibility for their actions and face consequences under the law if it is necessary². In this sense, the war exposes a broader crisis in contemporary international relations and international law, demonstrating that these fundamental principles are under threat. The Russian invasion undermines both ethical standards and established international legal rules.

The Russian invasion of Ukraine in February 2022 was a turning point of international law and global security. Russia’s actions violated the prohibition of the use of force contained in Article 2 (4) of the UN Charter³, as well as the jus cogens norm of general international law

¹ European Commission, ‘What is the rule of law?’ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/what-rule-law_en accessed 9 March 2026.

² Volker Röben, ‘Accountability’ in *Max Planck Encyclopedia of International Procedural Law* (online edn, Oxford University Press, May 2020) <https://opil.ouplaw.com/display/10.1093/law-mpeipro/e2378.013.2378/law-mpeipro-e2378> accessed 9 March 2026.

³ Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI <https://www.un.org/en/about-us/un-charter/full-text> accessed 9 March 2026.

prohibiting aggression⁴. According to the definition contained in the Rome Statute of the ICC, the crime of aggression refers to the planning, preparation, initiation or execution of an act of aggression which, by its character, gravity and scale constitutes a manifest violation of the UN Charter⁵. Crime of aggression is considered often as a “leadership crime”, as the decisions taken are coming from highest political and military personnels⁶. The invasion in Ukraine gathered various reactions and was widely condemned by the international community, with 141 member states of UN voting to denounce the aggression. However, significant limitations have been faced in responding effectively, as Russia is a permanent member of the UNSC and it holds veto power.

The war of aggression in Ukraine therefore raises significant legal concern regarding the application of international humanitarian law and international criminal law. It challenges the legitimacy of the use of force and raises questions about whether attacks carried out within a war of aggression can be considered fully lawful or legitimate under international law. In this context, it becomes important to examine how major international actors have responded to the invasion and whether their actions contribute to promoting accountability and the enforcement of international legal norms.

International Responses and Role of Key Regional Actors

The EU is a key international actor in promoting the rule of law, human rights and accountability among its member states. Through its legal and political framework, the EU has established a range of mechanisms aimed at safeguarding democratic values and ensuring compliance with international and European legal standards. Although Ukraine, is not yet a member of the EU, the Union has played a significant role in responding to Russia’s invasion.

⁴ International Law Commission, *Report of the International Law Commission on the work of its seventy-first session (2019)* UN Doc A/74/10, 144 [5] <https://legal.un.org/ilc/reports/2019/english/chp5.pdf> accessed 9 March 2026.

⁵ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90, arts 8 bis (10)-(11) <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf> accessed 10 March 2026.

⁶ Kevin Jon Heller, ‘Retreat from Nuremberg: The Leadership Requirement in the Crime of Aggression’ (2007) 18(3) *European Journal of International Law* 477, 478-79 <https://www.ejil.org/pdfs/18/3/135.pdf> accessed 17 March 2026.

Its involvement is closely linked to its broader commitment to promoting the rule of law, human rights and international security in the European region. Following the invasion, the EU adopted a series of measures, including economic and diplomatic sanctions against Russia⁷. In addition, it has provided financial assistance and political support to Ukraine in order to respond to violations of international law and reinforce accountability⁸.

Alongside the European Union, NATO has also played a crucial role in responding to Russia's invasion. Although Ukraine is not a member of NATO, it has long been considered a partner country by participating in various cooperation programmes, with the alliance since the 1990s⁹. NATO's involvement is linked to its broader commitment to promoting the rule of law, territorial integrity and state sovereignty, as well as maintaining stability in the Euro-Atlantic region. The Russian – Ukrainian war has significantly threatened stability not only in Ukraine, but also in the wider European region¹⁰. For this reason, NATO has provided support to Ukraine, primarily through indirect assistance rather than direct military intervention. Such support includes the training of Ukrainian soldiers, the provision of military equipment and other forms of strategic and security assistance¹¹.

Gaps between legal norms and enforcement mechanisms

Despite the international legal frameworks regulating armed conflict, including international humanitarian law and international criminal law, serious violations continue to occur. Taking into consideration the aforementioned, an evident gap between the normative rule of international law and the enforcement mechanisms is highlighted. While these legal frameworks clearly prohibit acts of aggression and other grave violations, the effectiveness of such norms often depends on political will, institutional capacity and state cooperation. In this sense, various monitoring and enforcement mechanisms have been created by international and

⁷ Council of the European Union, 'EU response to Russia's military aggression against Ukraine' and 'Timeline: Russia's military aggression against Ukraine' <https://www.consilium.europa.eu/en/policies/eu-response-russia-military-aggression-against-ukraine-archive/> and <https://www.consilium.europa.eu/en/policies/eu-solidarity-ukraine/timeline-russia-military-aggression-against-ukraine/> accessed 10 March 2026.

⁸ Ibid.

⁹ North Atlantic Treaty Organisation, 'Relations with Ukraine' <https://www.nato.int/en/what-we-do/partnerships-and-cooperation/relations-with-ukraine> accessed 10 March 2026.

¹⁰ North Atlantic Treaty Organisation, 'NATO's support for Ukraine', <https://www.nato.int/en/what-we-do/partnerships-and-cooperation/natos-support-for-ukraine> accessed 10 March 2026.

¹¹ Ibid.

regional organisations, aiming to ensure compliance with international legal standards. However, the application of such mechanisms remains limited, particularly in situations where political constraints or institutional limitations restrict their implementation. Therefore, it is evident that one of the major challenges in the contemporary international legal system is to ensure accountability for such violations.

Research scope and research questions

The thesis has a two-fold objective. First, it analyses the legal, political and security response adopted by the EU and NATO following Russia's aggression against Ukraine. Second, it examines the accountability gap surrounding the crime of aggression and evaluates whether, and to what extent, non-judicial responses adopted by the EU and NATO can function as complementary mechanisms supporting the enforcement of accountability for violations of international law. Through the case study of the Russian-Ukrainian war, the thesis analyses the legal and political challenges surrounding the prosecution of the crime of aggression. At the same time, it explores how the Ukrainian case has exposed structural limitations and selectivity patterns within the existing international criminal justice system. Particular attention is given to the establishment of the Special Tribunal for the Crime of Aggression against Ukraine as a complementary mechanism addressing existing accountability gaps.

The temporal scope of this thesis extends from 24 February 2022, marking the beginning of the Russian invasion of Ukraine, to February 2026, allowing an evaluation of both the immediate and longer-term legal and political responses to the conflict.

In order to address adequately the central question, the thesis will also analyse the following sub-questions:

1. How does international law define and regulate the crime of aggression, and what limitations exist in enforcing accountability for such violations?
2. What political, legal and security measures have been adopted by the EU and NATO in response to Russia's invasion of Ukraine?

3. To what extent can sanctions and institutional responses by the EU and NATO function as complementary mechanisms for the enforcement of accountability for the crime of aggression?
4. What are the legal and political challenges surrounding the establishment of a Special Tribunal for the Crime of Aggression against Ukraine?
5. To what extent do these responses contribute to strengthening accountability mechanisms for violations of international law?

Methodology

This thesis follows a qualitative approach based primarily on doctrinal legal analysis and desk-based research. In order to analyse the legal and political responses to Russia's invasion of Ukraine, the study examines international legal instruments, institutional documents, political statements and academic literature. Particular attention is given to the role of the EU and the NATO with the aim of illustrating their contribution to promoting accountability and addressing the challenges posed by the crime of aggression.

The research is based on both primary and secondary resources. The primary resources include treaties and conventions, the UN Charter, the Rome Statute and the Kampala Amendments, UN documents and resolutions, official documents of the ICC, as well as EU and NATO institutional documents and policy statements. Secondary sources consist academic books, journal articles and reports dealing with, international law, international criminal law, the crime of aggression and accountability mechanisms.

The thesis does not only focus on a descriptive examination of legal developments but moves to the adoption to an analytical and policy-oriented approach. It evaluates the interaction between international law and political considerations, while assessing the extent to which existing mechanisms are capable of ensuring accountability. The Russian-Ukrainian war will be used for illustrative purposes to examine the broader issues of selective enforcement,

political dimensions of international criminal justice and the structural limitation of the existing system.

Finally, given that the conflict is still ongoing and that the Special Tribunal for the Crime of Aggression against Ukraine has not yet become fully operational, some of the conclusions reached are necessarily provisional and should be understood within the context of an evolving legal and political framework.

Structure of the thesis

The thesis is divided into four main chapters. Chapter 2 focuses on the responses of the EU and NATO to Russia's aggression and evaluates the extent to which these responses aim to address issues of accountability and international security. Chapter 3 examines the crime of aggression and the limitations of international legal enforcement. It explores the historical development of the crime of aggression; its legal framework and the challenges associated with enforcing accountability under international law. Chapter 4 examines the accountability gap within the international legal system by focusing on the jurisdictional and enforcement limitations of the existing framework. It further analyses the proposal for a Special Tribunal for the Crime of Aggression against Ukraine, the broader issue of selective enforcement in international criminal law. Additionally, it analyses the complementary contribution of the EU and NATO to accountability through political, economic and security responses, the selectivity of enforcement and the aspect of Special Tribunal for the crime of aggression against Ukraine. Finally, Chapter 5 presents the conclusions of the study and answers the main research question.

Chapter 2 – EU and NATO Responses to Russia's Aggression against Ukraine: Political, Legal and Security Measures

Full-scale Russia's invasion of Ukraine in February 2022 was followed by extensive political, legal and security responses from major international organisations. As previously discussed

in the introduction, the invasion constitutes a breach of the prohibition on the use of force under Article 2(4)¹² of the UN Charter and has been widely condemned in international legal and political discourse as an act of aggression against Ukraine.

Although Ukraine is not a member of the EU, nor NATO, its geostrategic position triggered a strong wave of reactions following Russia's invasion in 2022¹³. Both the EU and NATO responded with extensive packages of sanctions and other restrictive measures. The aim is to limit the impact of the war on European security and protect the sovereignty and territorial integrity of Ukraine, as well as the broader rules based on international order.

This chapter examines how these international organisations responded to the Russian invasion, focusing on the legal and political measures adopted, particularly sanctions, and how these measures are framed in relation to international law and European security.

This chapter aims to answer the first sub-question of the thesis, namely: What political, legal and security measures have been adopted by the EU and NATO in response to Russia's invasion of Ukraine? In order to answer this question, the chapter analysed the responses of both organisations and the measures adopted following the outbreak of the full-scale invasion in 2022. Additionally, it examines the limitations and the effectiveness of sanctions, focusing on how their design and implementation influenced their overall impact. The analysis provided in this chapter serves as the basis for the following chapter, which examines whether these responses can also function as complementary mechanisms for promoting accountability for the crime of aggression.

2.1 European Union responses

After Russia's aggression against Ukraine, EU reacted by strongly condemning Russia's action. Even though Ukraine is not a member state of the Union, sanctions and additional

¹² UN Charter (n 3) art 2(4).

¹³ EU Neighbours East, 'EU and Ukraine Open First Accession Negotiations Cluster on Fundamentals' (2026) <https://euneighbourseast.eu/news/latest-news/eu-and-ukraine-open-first-accession-negotiations-cluster-on-fundamentals/> accessed 16 June 2026; North Atlantic Treaty Organization (NATO) 'Relations with Ukraine' <https://www.nato.int/en/what-we-do/partnerships-and-cooperation/relations-with-ukraine> accessed 16 June 2026.

measures were adopted aiming at supporting Ukraine throughout the war¹⁴. Scholars have argued that the EU's position is closely related to Ukraine's geographic location and the concern that a Russian victory could challenge the existing European security order and potentially threaten the borders of other European states¹⁵. However, these concerns did not emerge overnight.

After the collapse of the Soviet Union in 1991, the EU approached Russia in an attempt to re-establish their political and economic relations¹⁶ and to promote the fundamental values of the Union, such as democracy, the rule of law and human rights¹⁷. This cooperation was formalised through the signing of the Partnership and Cooperation Agreement (PCA) in 1994¹⁸. The EU played the leading role in this relationship by setting the agenda and priorities for Russia's political development. During the first twenty years, the cooperation between the two sides developed relatively smoothly, particularly in areas such as economy, education, security, justice and freedom¹⁹.

The turning point in the EU-Russia relations emerged after the election of Vladimir Putin, who remains the current President of Russia. The Eurocentric approach that characterized the collaboration of the previous years was gradually rejected by Putin, who viewed EU policies towards Eastern European countries as a threat to Russian national interests²⁰. Despite these growing differences, the EU maintained close relations with Russia, especially in the energy sector, as Russia became one of the EU's main partners for oil and gas imports²¹. This

¹⁴ Timeline – EU sanctions against Russia' (Council of the European Union)
<https://www.consilium.europa.eu/en/policies/sanctions-against-russia/timeline-sanctions-against-russia/>
accessed 2 May 2026.

¹⁵ Lunyka Adelina Pertiwi, 'The EU's Approach to Sanctions on Russia: A Critical Analysis of the Existing Literature' (2024) 18(3) *Central European Journal of International and Security Studies* 61-86, 73
https://cejiss.org/images/2024/Pertiwi/Pertiwi_CEJISS_18-3.pdf accessed 5 May 2026.

¹⁶ Ana Chun Lucas Sánchez, 'How the War in Ukraine Shaped EU Foreign Policy towards Russia: A Comprehensive Analysis of the Economic, Defense and Diplomacy Factors' (Bachelor Thesis, Universidad Pontificia Comillas, April 2023) 16.
<https://repositorio.comillas.edu/xmlui/bitstream/handle/11531/69032/TFG%20-%20Lucas%20Sanchez%2C%20Ana%20Chun.pdf?sequence=1&isAllowed=y> accessed 5 May 2026.

¹⁷ Ibid 74.

¹⁸ 'EU/Ukraine Partnership and Cooperation Agreement' (CORDIS, 1994)
<https://cordis.europa.eu/article/id/2672-euukraine-partnership-and-cooperation-agreement> accessed 5 May 2026.

¹⁹ Sánchez (n 16) 16.

²⁰ Ibid.

²¹ Ibid.

dependence placed the EU in a particular difficult position when the war began and when decision regarding its responses had to be taken²².

After the Crimean Crisis in 2013-2014, the pro-Russian president of Ukraine Viktor Yanukovich, refused to reach an agreement for further integration with the EU. This decision caused a massive public protest, eventually leading to his removal from office. The instability that followed gave the opportunity to Putin to illegally annex Crimea, aiming to maintain Russian influence in the region²³. This event was the major rupture for the relations of EU-Russia. The EU considered Russia's action as a violation of international law and more specifically Article 2(4)²⁴ of the UN Charter and a violation of Ukraine's sovereignty and territorial integrity²⁵. All EU member states agreed to impose a series of sanctions against Russia²⁶, as the annexation was also perceived as a direct threat to European security and stability²⁷.

The EU's reaction was summarized in a five-point policy framework.²⁸

1. The full implementation of the Minsk Agreements²⁹
2. The strengthening of the Eastern Partnership and cooperation with Central Asian Countries
3. Strengthening the EU internally
4. Selective engagement with Russia
5. Expanding people-to-people contacts

2.1.1 Sanctions imposed on Russia after the annexation of Crimea (2014-2018)

²² Ibid.

²³ Sánchez (n 16) 17.

²⁴ UN Charter (n 3) art 2(4).

²⁵ European Parliament, 'Motion for a Resolution' B9-0433/2022 (2022)

https://www.europarl.europa.eu/doceo/document/B-9-2022-0433_EN.docx accessed 4 May 2026.

²⁶ Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

²⁷ Ibid.

²⁸ Ibid.

²⁹ 'Package of Measures for the Implementation of the Minsk Agreements' (Organisation for Security and Co-operation in Europe/ United Nations Peacemaker, 12 February 2015) <https://peacemaker.un.org/sites/default/files/document/files/2024/05/ua150212minskagreementen.pdf> accessed 6 May 2026.

Following these developments, the European Union reacted in 2014 by adopting a package of sanctions against Russia³⁰. At the same time, the former US President Barack Obama described the situation in Ukraine as “an act of aggression towards former Soviet States”, attempting to revive the memories of the Cold War and promote a common response between the EU and US³¹.

Before the sanctions were implemented, discussions took place with the EU member states regarding the policy-making process and the form that these measures should take. Reaching an agreement among so many states was particularly challenging, as each state considered its own political and economic interests³². The UK played a significant role in promoting stricter sanctions, particularly targeting Russia’s defence and security sectors³³. On the other hand, Germany and France adopted a more cautious position. Although both countries disagreed with Russia’s actions, they were reluctant to completely damage their relations with Moscow³⁴. France did not fully agree that the Crimean issue is as directly connected to French interests, as the ongoing issues in the Middle East and North Africa which were of greater geopolitical importance³⁵. In contrast, Poland, due to both its historical experience and geographical proximity to Ukraine, strongly supported the EU position and warned other member states about the dangers of Russian imperialism³⁶.

Eventually, the EU adopted sanctions mainly in the economic and diplomatic sectors, while visa bans and asset freezes were imposed on individuals considered responsible for the annexation of Crimea³⁷.

³⁰ Pertiwi (n 15) 63.

³¹ Ibid 68.

³² Ibid 64.

³³ Ibid 65.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid 66.

³⁷ Ibid 68.

Despite the economic sanctions, Germany continued discussions with Russia regarding the Nord Stream 2 project³⁸, demonstrating the importance of energy cooperation between the two sides³⁹.

These different approaches demonstrate that EU decisions are often influenced by the political and economic interests of individual member states. Smaller states usually have limited influence on decision-making and therefore tend to align themselves with policies that best protect their own interests⁴⁰. Consequently, stronger states often shape the final political decisions according to their national priorities. In this sense, the EU can sometimes be understood more as a facilitator of cooperation than as an entirely independent policymaker.

Even though sanctions were imposed, the overall situation did not substantially improve, as the EU lacked the necessary capabilities to effectively stop Russian aggression. The suspension of the EU-Russia Summit in July of 2014, did not lead Putin to reduce actions in the region⁴¹. In the same year, the EU also established the European Union Advisory Mission (EUAM)⁴² in Ukraine. Through cooperation with institutions such as the Ministry of Interior, the Ministry of Justice, the police, security services and border guards, the mission aimed to support governance reforms according to EU standards⁴³. Nevertheless, while EUAM demonstrated the EU's presence in Ukraine, it also reflected the Union's limited ability to respond decisively to the broader conflict⁴⁴.

³⁸ Maria del Rocío Melgosa Hervás, 'The Nord Stream 2 divides the EU' (Universidad de Navarra Global Affairs and Strategic Studies, 5 June 2018) https://www.unav.edu/web/global-affairs/detalle?p_p_id=com_liferay_blogs_web_portlet_BlogsPortlet&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&p_r_p_tag=nord+stream&p_r_p_resetCur=false&p_r_p_categoryId=16800875 accessed 5 May 2026.

³⁹ Pertiwi (n 15) 65.

⁴⁰ Diana Panke, 'Small states in Eu decision-making: How can they be effective?' in Harald Baldersheim and Michael Keating (eds), *Small States in the Modern World: Vulnerabilities and Opportunities* (Edward Elgar 2015) 3-4 https://www.researchgate.net/publication/287583581_Small_states_in_EU_decision-making_How_can_they_be_effective accessed 7 May 2026.

⁴¹ Anna-Sophie Maass, 'The EU's Changing Strategy towards Russia: The Response to Aggression' (Chapter in *Europe's World: Policy Paradigms, Strategic Thinking and the Anti-Liberal Challenge*, Bristol University Press, 2025) 167-187, 173 https://www.researchgate.net/publication/400378555_The_EU's_Changing_Strategy_towards_Russia_The_Response_to_Aggression accessed 4 May 2026.

⁴² 'EU Advisory Mission Ukraine- building sustainable capacities in war-affected areas' (European External Action Service, 2025) https://www.eeas.europa.eu/eeas/eu-advisory-mission-ukraine—building-sustainable-capacities-war-affected-areas_en accessed 4 May 2026.

⁴³ Maass (n 41) 174.

⁴⁴ Ibid.

Despite the sanctions imposed after 2014, the Russian aggression did not stop, leading the situation to escalate even more and additional EU restrictive measures to occur in the following years⁴⁵.

2.1.2 Escalation of sanctions and EU responses before and after the 2022 invasion

The situation escalated further in November 2018, when Russia attacked Ukrainian vessel in the Kerch Strait, in the Sea of Azov, and detained several crew members⁴⁶. Russia justified these actions by claiming that the strait belonged to Russian territory following the annexation of Crimea⁴⁷. The EU reacted in 2019 by imposing more sanctions on several Russian individuals considered responsible for the incident⁴⁸. In June 2019, the EU also renewed the sanctions related to Crimea until March of 2020, extending travel and asset freezes affecting approximately 200 individuals⁴⁹.

Between 2020 and 2022, before the full-scale invasion of Ukraine, the EU maintained a similar sanctions policy by targeting individuals and actions associated with violations of Ukraine's territorial integrity, money laundering activities and the annexation of Crimea⁵⁰. Existing sanctions were repeatedly renewed, while additional restrictions were introduced against sectors of Russian economy. However, these measures ultimately proved insufficient to stop Putin's policies and the Russian aggression⁵¹.

The war in Ukraine officially escalated on 24 February 2022, when Russia launched its full-scale invasion⁵². Immediately after the invasion, the EU adopted additional sanctions targeting

⁴⁵ Ibid.

⁴⁶ Bentzen N, 'Russia-Ukraine Conflict flares up in the Azov Sea' (European Parliamentary Research Service, November 2018) 1-2

[https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/630307/EPRS_ATAG\(2018\)630307_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/630307/EPRS_ATAG(2018)630307_EN.pdf) accessed 4 May 2026; Ibid.

⁴⁷ Ibid.

⁴⁸ Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁴⁹ Ibid.

⁵⁰ Bentzen (n 46)174-175; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁵¹ Ibid.

⁵² 'War in Ukraine' (Center for Preventive Action, Council on Foreign Relations, updated 2 February 2026) <https://www.cfr.org/global-conflict-tracker/conflict/conflict-ukraine> accessed 3 May 2026.

President Vladimir Putin and the Foreign Minister Sergei Lavrov, and members of Russia's National Security Council, through financial and political restrictions⁵³.

The EU's response continued through several sanctions packages targeting multiple sectors⁵⁴. In the field of defence and security, the EU banned the export of military equipment and technological products to Russia while simultaneously strengthening the security of Eastern European member states⁵⁵. At the same time, the EU cooperated closely with NATO in reinforcing military presence in countries such as Poland and the Baltic states⁵⁶.

Additional restrictions were also imposed in the diplomatic sphere⁵⁷. Besides the suspension of the EU-Russia Summit process, Russia was excluded from the G8, which returned to functioning as the G7. European states also suspended negotiations regarding Russia's potential accession to the Organisation for Economic Co-operation and Development (OECD) and the International Energy Agency (IEA)⁵⁸. These diplomatic measures, aim to isolate Russia from key multilateral forums, signaling collective disapproval of its conduct and reducing its ability to participate in shaping global governance structures.

Regarding trade restrictions, sanctions initially targeted individuals and companies accused of threatening Ukraine's sovereignty. Russian banks were removed from the Society for Worldwide Interbank Financial Telecommunication (SWIFT) System, while additional measures targeted the Russian and Belarusian financial sectors⁵⁹. The EU also imposed sanctions on Putin and Lavrov personally, closed European airspace to Russian aircraft and restricting exports connected to aviation, the space industry and oil refining technologies⁶⁰.

Further measures included bans on transactions with Russian state-owned companies, restrictions on luxury goods exports and limitations on products such as semiconductors and quantum computing technologies sectors⁶¹. These sanctions were meant to affect Russia

⁵³ Timeline – 'EU sanctions against Russia' Council of the European Union (n 14); Bentzen (n 46) 175.

⁵⁴ Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁵⁵ Sánchez (n 16) 25.

⁵⁶ Ibid; 'EU-NATO Strategic Partnership' (European External Action Service, 29 September 2025)

https://www.eeas.europa.eu/eeas/eu-nato-strategic-partnership_en accessed 3 May 2026; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁵⁷ Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁵⁸ Sánchez (n 16) 22; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁵⁹ Ibid 23; Maass (n 41) 175; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁶⁰ Sánchez (n 16) 23; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁶¹ Ibid p 23; Maass (n 41) 175; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

deeply, since they were highly dependent on new investments in the Russian energy sector⁶². Also, they proceeded by restricting the Russian access to EU ports and banned consultancy and investment-related services⁶³. Energy restrictions represented one of the most important sectors within the sanctions regime⁶⁴. The EU introduced restrictions on petroleum and coal imports and imposed price caps, while simultaneously attempting to reduce its dependence on Russian gas, which had long been central to EU-Russia economic relations⁶⁵.

In the area of defence and security, the EU continued restricting the export of technological products, including dual-use goods and radio-navigational equipment that could potentially support the Russian military⁶⁶. Aiming that way to limit Russia's access to critical technologies that could enhance their military capabilities, thereby constraining its capacity to sustain and modernise its defence operations. Furthermore, the EU sanctioned Russia state-controlled media outlets, including the channels "Russia Today", "Sputnik" and "Russia 24", considering them instruments of propaganda and threats to European security and public order⁶⁷.

Finally, the EU strengthened its broader defence and security strategy by promoting initiatives such as the Strategic Compass⁶⁸ and the concept of European strategic autonomy⁶⁹, aiming to improve the Union's ability to respond more effectively to future security threats⁷⁰. More specifically, the main aim was to create a collective and quick military reaction in the case that Russian invasion has emphasised the need to make use of their troops⁷¹. Similarly, in order to secure EU as much as possible, they created strategies and tools to avoid cyber-attacks and hybrid or military attacks⁷². They tried to enforce equally the military power across Europe, by

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Sánchez (n 16) 25; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁶⁷ Sánchez (n 16) 23; Maass (n 41) 175; Timeline – 'EU sanctions against Russia' Council of the European Union (n 14).

⁶⁸ 'A Strategic Compass for Security and Defence' (European External Action Service) https://www.eeas.europa.eu/eeas/strategic-compass-security-and-defence-1_en accessed 5 May 2026.

⁶⁹ 'Strategic Autonomy and European Economic and Research Security' (European Commission- Research and Innovation) https://research-and-innovation.ec.europa.eu/strategy/strategy-research-and-innovation/europe-world/international-cooperation/strategic-autonomy-and-european-economic-and-research-security_en accessed 5 May 2026.

⁷⁰ Sánchez (n 16) 25.

⁷¹ Ibid; 'EU Battlegroups' (Council of the European Union) https://www.eeas.europa.eu/node/33557_en accessed 5 May 2026; 'A Strategic Compass for Security and Defence' (n 68).

⁷² Ibid; 'EU Cybersecurity Strategy' (European Commission, Shaping Europe's Digital Future) <https://digital-strategy.ec.europa.eu/en/policies/cybersecurity-strategy> accessed 5 May 2026; 'Hybrid threats; (Council of Europe) <https://www.consilium.europa.eu/en/policies/hybrid-threats/#response> accessed 5 May 2026

also promoting the idea to develop a “European strategic autonomy”⁷³. Finally, they collaborated closely with NATO, UN and Eastern partners in order to cooperate regarding the rising common threats⁷⁴.

The main aim of the EU is to reinforce their role to provide help globally and show to Russia their solidarity and help towards Ukraine⁷⁵. Through the Strategic Compass framework⁷⁶, EU provided support to Ukraine by different means⁷⁷. They helped in the aid and defence, contributing politically, financially, with humanitarian military⁷⁸. This type of help have been given through the EUAM⁷⁹ and was controlled by the Political and Security Committee⁸⁰. Additionally, EUAM provides training to Ukrainian soldiers to prepare them to encounter the Russian troops⁸¹.

It is important to mention that, even though economic sanctions were considered among the EU’s most effective measures, economic relations with Russia were not completely severed⁸². A significant percentage of EU energy remained dependent on Russia, particularly liquified natural gas, which was not fully included in the sanction’s regime⁸³. By December 2022, the EU maintained a trade deficit with Russia, demonstrating that imports from Russia continued despite the sanctions⁸⁴. At the same time, diplomatic communication between the EU and Russia continued on issues such as the Iranian nuclear deal, the Israeli Palestinian conflict, terrorism and climate change⁸⁵.

2.1.3 Decision-Making Processes and Consensus Building in EU Foreign Policy

⁷³ Sánchez (n 16) 25; ‘Strategic Autonomy and European Economic and Research Security’ (n 69).

⁷⁴ Sánchez (n 16) 25.

⁷⁵ Ibid.

⁷⁶ ‘A Strategic Compass for Security and Defence’ (n 68).

⁷⁷ Sánchez (n 16) 25.

⁷⁸ Ibid.

⁷⁹ EUAM (Ukraine) (n 42).

⁸⁰ ‘Political and Security Committee (PSC)’ (Council of the European Union)

<https://www.consilium.europa.eu/en/council-eu/search-the-list-of-council-preparatory-bodies/political-security-committee/> accessed 5 May 2026.

⁸¹ Sánchez (n 16) 25.

⁸² Ibid.

⁸³ Ibid 23.

⁸⁴ Eurostat, ‘EU Trade with Russia-Latest Developments’ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_trade_with_Russia_-_latest_developments accessed 3 May 2026.

⁸⁵ Sánchez (n 16). 22

The EU decision-making in external policy is based on liberal intergovernmentalism⁸⁶. This theory, is part of international relations and regional integration studies, argues that integration is mainly driven by the rational choices of national governments, rather than by supranational actors. In this context, states attempt to promote their domestic interests, through intergovernmental cooperation in order to secure benefits while simultaneously retaining their sovereignty⁸⁷.

This means that during the decision-making process, member states seek to influence policies according to their national and economic interests. Although the EU operates as a multilevel political organisation that aims to maintain a common and relatively neutral foreign policy, decision-making does not always function in a fully unified manner⁸⁸. Liberal intergovernmentalism demonstrates that member states do not have complete control over policymaking. Decisions are shaped through complex multilevel institutional structures and continuous bargaining among states⁸⁹.

Therefore, being part of the EU does not mean that states are fully controlled by a single foreign policy system. However, EU membership significantly affects the decision-making process. In this sense, a strong level of cooperation exists among member states, as they share common values, institutions and rules, creating a sense of political community⁹⁰. This helps explain how EU managed to adopt sanctions against Russia and how member states collaborated in order to maintain a common sanctions policy despite their different national interests.

Additionally, in an attempt to expand the impact of sanctions on Russia, EU sought to extend its restrictive measures to non-member states⁹¹. The way they did that is distinguished in two categories⁹². The first is “alignment”, in which non-EU countries are officially invited to adopt the sanctions imposed by the EU and publicly announce their participation. The second is

⁸⁶ Andrew Moravcsik, ‘Liberal intergovernmentalism and European Integration’ (Princeton University Working Paper/ library version) <https://www.princeton.edu/~amoravcs/library/intergovernmentalism.pdf> accessed 5 May 2026.

⁸⁷ Ibid.

⁸⁸ Moravcsik, ‘Liberal intergovernmentalism and European Integration’ (n 86).

⁸⁹ Pertiwi (n 15) 64-65.

⁹⁰ Ibid.

⁹¹ ‘Increasing the effectiveness of sanctions’ (European External Action Service, 9 January 2025) https://www.eeas.europa.eu/eeas/sanctions-enhancing-effectiveness_en accessed 5 May 2026.

⁹² Pertiwi (n 15) 70-71.

“adoption”, referring to non-EU countries that apply similar sanctions without publicly declaring that they are following the EU’s policy⁹³.

Furthermore, although the EU has significant influence in the policy making process, it often collaborates with international organisations in order to maximise the effectiveness of the sanctions imposed. In the case of the Russian-Ukraine war, the EU cooperated with organisations such as the UN and NATO in an attempt to combine political, economic and security capabilities and achieve more effective results. In this sense, NATO responses for the Russian aggression towards Ukraine will be examined

2.2 NATO responses

Building upon the previous analysis, this section examines NATO’s responses to Russia’s aggression against Ukraine. It explores the historical and strategic foundations of the Alliance, the measures adopted following the full-scale invasion of 2022 and the extent to which these responses contribute to supporting accountability and increasing pressure on Russia to alter its behavior.

2.2.1 Historical and strategic background of NATO

The creation of NATO dates back to 1949, after the end of the Cold War, with the aim of creating a strong security community based on collective defence⁹⁴. Its primary goal, and one of the reasons for its creation, was to defend against a potential assault from the Soviet Union forming part of the first steps in the construction of the “block system”⁹⁵. The cornerstone upon which the Alliance was based included three main concepts: shared identity, trust and common practice⁹⁶. These principles were grounded in specific norms and values that member states were expected to respect and follow. In this sense, NATO was founded upon liberal democratic

⁹³ Ibid.

⁹⁴ ‘A Short History of NATO’ (North Atlantic Treaty Organization) <https://www.nato.int/en/about-us/nato-history/a-short-history-of-nato> accessed 5 May 2026.

⁹⁵ Ibid.

⁹⁶ ‘NATO’s purpose’ (North Atlantic Treaty Organization) <https://www.nato.int/en/what-we-do/introduction-to-nato/natos-purpose> accessed 5 May 2026.

norms and the protection of a rules-based international order grounded in collective security and respect for state sovereignty⁹⁷.

Throughout the years, political developments and new security challenges led to a transformation of Alliance's role and strategic orientation. More specifically, after the end of the Cold War, NATO gradually shifted from a purely defensive alliance to an instrument of proactive crisis management and cooperative security⁹⁸. During this period, NATO and Russia initially attempted to establish a cooperative relationship. Putin had declared that "only by harmoniously combining our actions... will we open up wide-ranging possibilities for building a single security region from Vancouver to Vladivostok" a very promising statement for future cooperation⁹⁹. Similarly, NATO's 2010 Strategic Concept¹⁰⁰ stated that "NATO-Russia cooperation is of strategic importance as it contributes to creating a common space of peace, stability and security. NATO poses no threat to Russia. On the contrary: we want to see a true strategic partnership between NATO and Russia, and we will act accordingly with the expectation of reciprocity from Russia"¹⁰¹. However, it became evident that these expectations eventually shifted from promising to abysmal.

The turning point in NATO-Russia relations came after the annexation of Crimea in 2014. NATO reacted collectively to Russia's aggression, interpreting Russia's actions as a violation of international law¹⁰² and more specifically Article 2(4) of the UN Charter¹⁰³. Additionally, the annexation was understood as a threat not only to Ukraine but also to NATO and its partners, reviving Cold War policies and discourse¹⁰⁴. This moment fundamentally reshaped the relationship between Russia and NATO, as the Alliance increasingly perceived Russia as a

⁹⁷ Ibid.

⁹⁸ O.Y. Kovtun and D.V Terzi, 'Military and Political Changes in NATO as Response to Russia's Full-Scale Invasion of Ukraine' (2024) 161 *Actual Problems of International Relations* 4-10 https://www.researchgate.net/publication/388051379_MILITARY_AND_POLITICAL_CHANGES_IN_NATO_AS_RESPONSE_TO_RUSSIA'S_FULL-SCALE_INVASION_OF_UKRAINE accessed 4 May 2026.

⁹⁹ Alexandra Gheciu and Stéfanie von Hlatky, 'Irreconcilable Differences? NATO's Response to Russian Aggression Against Ukraine' (2024) 79 (2) *International Journal* <https://journals.sagepub.com/doi/10.1177/00207020241255999> accessed 2 May 2026.

¹⁰⁰ 'Strategic Concept 2010: Active Engagement, Modern Defence' (North Atlantic Treaty Organization) <https://www.nato.int/en/about-us/official-texts-and-resources/strategic-concepts/strategic-concept-2010> accessed 1 May 2026.

¹⁰¹ Gheciu and von Hlatky (n 99).

¹⁰² 'Relations with Russia' North Atlantic Treaty Organization) <https://www.nato.int/en/what-we-do/partnerships-and-cooperation/relations-with-russia> accessed 3 May 2026.

¹⁰³ UN Charter (n 3) art 2(4).

¹⁰⁴ Gheciu and von Hlatky (n 99); 'Relations with Russia' (n 102).

direct threat¹⁰⁵. Moscow violated the norms that had been established between the two actors during the post-Cold War period and destabilised the security and stability of the Euro-Atlantic region¹⁰⁶. As former NATO Secretary General Anders Rasmussen stated “Crimea was a game changer” arguing that Russia’s actions violated norms and trust towards NATO and highlighted the need to revise the Alliance’s policies toward what have become a re-securitised source of threat¹⁰⁷. Consequently, NATO suspended almost all forms of collaboration with Russia, both on a political and military level. This decision was reflecting the Alliance’s transition from cooperative security to deterrence and collective defence in response to the acts of aggression.

The evolution of the Alliance’s role is highlighted in the Wales Summit in 2014¹⁰⁸. The decisions taken included financing, readiness and the development of the eastern flank¹⁰⁹. At the same time, NATO Response Force (NRF)¹¹⁰ was strengthened supporting mission across land, air and maritime domains¹¹¹. The Allies further reinforce this structure by creating a “forward presence” known as the Very High Readiness Joint Task Force (VJTF)¹¹².

This initiative is part of one of the measures of the Readiness Action Plan (RAP)¹¹³, which was agreed upon the Allies, aiming to ensure readiness in responding to changes in the security environment¹¹⁴. At the same time, an upgrade of measures used since the 2000s was introduced, as Special Operations Forces (SOF)¹¹⁵ were further developed ensuring high mobility, technological level and multilateral character¹¹⁶.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ ‘NATO Secretary General condemns moves to incorporate Crimea into Russian Federation’ (North Atlantic Treaty Organization, 18 March 2014) <https://www.nato.int/en/news-and-events/events/transcripts/2014/03/18/nato-secretary-general-condemns-moves-to-incorporate-crimea-into-russian-federation> accessed 3 May 2026; Gheciu and von Hlatky (n 99).

¹⁰⁸ ‘Wales Summit Declaration’ (North Atlantic Treaty Organization, 5 September 2014) <https://www.nato.int/en/about-us/official-texts-and-resources/official-texts/2014/09/05/wales-summit-declaration> accessed 3 May 2026.

¹⁰⁹ Ibid.

¹¹⁰ ‘NATO Response Force (2002-2024)’ (North Atlantic Treaty Organization) <https://www.nato.int/en/what-we-do/deterrence-and-defence/nato-response-force-2002-2024> accessed 3 May 2026; Ibid.

¹¹¹ Ibid.

¹¹² ‘The Very High Readiness Joint Task Force’ (NATO Supreme Headquarters Allied Powers Europe-SHAPE, Steadfast Defender Media Centre) <https://shape.nato.int/steadfast-defender/media-centre/questions-and-answers/the-very-high-readiness-joint-task-force> accessed 3 May 2026; Wales Summit Declaration (n 108); NATO Responses Force (n 110).

¹¹³ ‘Readiness Action Plan’ (North Atlantic Treaty Organization) <https://www.nato.int/en/what-we-do/deterrence-and-defence/readiness-action-plan> accessed 3 May 2026.

¹¹⁴ Ibid; Gheciu and von Hlatky (n 99).

¹¹⁵ ‘Special Operation Forces’ (North Atlantic Treaty Organization) <https://www.nato.int/en/what-we-do/deterrence-and-defence/special-operations-forces> accessed 3 May 2026.

¹¹⁶ Ibid; Gheciu and von Hlatky (n 99).

2.2.2 NATO response to the full-scale invasion of Ukraine (2022-present)

As it was already established the escalation of the conflict in 2022 set the terms in a completely new perspective. Russia violated the territorial integrity of Ukraine, the prohibition of the use of force under Article 2(4)¹¹⁷ of the UN Charter¹¹⁸ and it direct challenge to the post-1945 international legal order¹¹⁹. Therefore, even though Ukraine is not a member of NATO, the Alliance provides significant support through military assistance and intelligence sharing¹²⁰. The 2022 invasion made clear the aggressive intension of Moscow. This act was interpreted by NATO from the beginning as an aggression in geopolitical manner and as a threat to the norms of the security community and to the principles of rules based on international order promoted by the community¹²¹. The Alliance understood Russia as a factor aiming to undermine the values of the security community and recognised this serious violation of international law and international agreements¹²². Therefore, the assistance provided in Ukraine is not only strategic reaction, but also an attempt to preserve the credibility of collective security principles and deter further violations of international law¹²³.

The Russian invasion made clear to the Alliance that it must be able to adapt and respond to immediate threats. The 2022 Strategic Concept¹²⁴ stated that “the Russian Federation poses the most significant and direct threat to allies”¹²⁵. At first, they supported Ukraine by increasing their military presence in Eastern Europe and by expanding military support to Ukraine¹²⁶. In addition, they provided the Ukrainian army with military equipment and gradually began

¹¹⁷ UN Charter (n 3) art 2(4).

¹¹⁸ ‘How Russia’s Invasion of Ukraine Violates International Law’ (Council on Foreign Relations) <https://www.cfr.org/articles/how-russias-invasion-ukraine-violates-international-law> accessed 3 May 2026; Gheciu and von Hlatky (n 99).

¹¹⁹ Gheciu and von Hlatky (n 99); Relations with Russia’ (n 102).

¹²⁰ Ibid; ‘NATO’s support for Ukraine’ (n 10).

¹²¹ Gheciu and von Hlatky (n 99).

¹²² Ibid; Relations with Russia’ (n 102).

¹²³ ‘Relations with Ukraine’ (n 9); Gheciu and von Hlatky (n 99).

¹²⁴ ‘NATO 2022 Strategic Concept’ (North Atlantic Treaty Organization, 29 June 2022) <https://www.nato.int/en/about-us/official-texts-and-resources/strategic-concepts/nato-2022-strategic-concept> accessed 5 May 2026.

¹²⁵ Chris Dolan, ‘NATO, the Russian Invasion of Ukraine and the 2022 Strategic Concept’ (Georgetown Journal of International Affairs, 9 November 2022) <https://gjia.georgetown.edu/global-governance/nato-the-russian-invasion-of-ukraine-and-the-2022-strategic-concept/> accessed 5 May 2026.

¹²⁶ NATO’s support for Ukraine’ (n 10); Gheciu and von Hlatky (n 99).

supplying more advanced weapons such anti-air and anti-tank systems, and later even tanks and fighter aircraft¹²⁷.

From the beginning of the war in 2022 until 2024, there was a large set of defence packages divided in three tier forces: Tier 1 providing 100.000 troops at 0-10 days readiness, Tier 2 providing 200.000 troops at 10-30 days readiness and Tier 3 providing 500.000 troops in a 30-180 days readiness¹²⁸.

After the war, NATO strengthened its collective security posture significantly. At that time, two key Allies abandoned their neutrality and became members of the Alliance: Finland in April 2023¹²⁹ and Sweden in March 2024¹³⁰. Both countries strengthened NATO's defence capabilities through advanced military industries and increased defence spending¹³¹.

Despite these efforts to reinforce NATO's presence in the war, the Alliance wanted to ensure that no direct threat will reaches the Allies, therefore adopting more conservative measures. In fact, US and NATO have declared that they are not willing to engage into actions that will lead to direct conflict with Russia, such as a no-fly zone¹³². This action demonstrates the limit of collective security mechanisms when confronting a nuclear power, while it highlights the broader tension between the protection of the international legal norms and the political risks associated with their enforcement.

The Vilnius Summit in 2023¹³³ reaffirmed the key principles and strategic direction introduced in NATO's 2022 Strategic Concept¹³⁴. At the same time measures were implemented regarding

¹²⁷ Ibid.

¹²⁸ Oliver Schmitt, 'NATO, the Russian Invasion of Ukraine, and the 2022 Strategic Concept' (2025) *Contemporary Security Policy* <https://www.tandfonline.com/doi/epdf/10.1080/14702436.2025.2562982?needAccess=true> accessed 4 May 2026; 'New NATO Force Model' (North Atlantic Treaty Organization, June 2022) https://www.nato.int/content/dam/nato/legacy-wcm/media_pdf/2022/6/pdf/220629-infographic-new-nato-force-model.pdf accessed 4 May 2026.

¹²⁹ 'Finland joins NATO as 31st Ally' (North Atlantic Treaty Organization, 4 April 2023) <https://www.nato.int/en/news-and-events/articles/news/2023/04/04/finland-joins-nato-as-31st-ally> accessed 4 May 2026.

¹³⁰ 'Sweden officially joins NATO' (North Atlantic Treaty Organization, 7 March 2024) <https://www.nato.int/en/news-and-events/articles/news/2024/03/07/sweden-officially-joins-nato> accessed 4 May 2026.

¹³¹ Schmitt (n 128).

¹³² Gheciu and von Hlatky (n 99).

¹³³ 'Vilnius Summit Communiqué' (North Atlantic Treaty Organization, 11 July 2023) <https://www.nato.int/en/about-us/official-texts-and-resources/official-texts/2023/07/11/vilnius-summit-communicue> accessed 6 May 2026.

¹³⁴ 'NATO 2022 Strategic Concept' (n 124).

support for Ukraine and NATO's deterrence strategy. The most important step taken in this conference was the change of Ukraine's membership process in NATO¹³⁵. It was agreed by all members to remove the requirement for a Membership Action Plan, modifying the process from a two-step to one-step process¹³⁶. Additionally, the NATO-Ukraine Council was established, a joint body of equals for consultation and decision-making¹³⁷. Also, a multi-year support program for Ukraine was established, covering critical needs such as de-mining equipment, fuel and medical supplies¹³⁸. Stoltenberg explained that "the NATO programme will also focus on building interoperability and ensuring that Ukraine transitions from Soviet equipment and doctrine to NATO standards."¹³⁹. Finally, Allies stated that they will continue providing military assistance to Ukraine¹⁴⁰. Essentially, it is evident that NATO was and still stands to Ukraine, providing support in any possible way.

2.3 Criticism and Limitations of EU and NATO Responses to Russian Aggression

As already established, both international organisations condemned the Russian aggression through a range of political, economic and security measures following the annexation of Crimea in 2014 and more extensively, after the full-scale invasion of Ukraine in 2022. However, as it was mentioned before, these measures did not produce the expected outcomes. Therefore, important questions emerge regarding the effectiveness of these responses. To what extent can sanctions influence state behavior? What limitations affect their implementation? Lastly, how effective have EU and NATO measures been in responding to Russian aggression?

2.3.1 Understanding of the sanctions

First, it is important to understand how sanctions operate and what they aim to achieve. Sanctions are generally considered one of the most humane measures available during wartime in comparison to direct military intervention¹⁴¹. Nevertheless, their effectiveness depends on

¹³⁵ Gheciu and von Hlatky (n 99); 'Vilnius Summit Communiqué' (n 133).

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid; 'NATO's support for Ukraine' (n 10).

¹⁴¹ Krzysztof Śliwiński, 'The problematic effectiveness of the EU sanctions against Russia' (2026) *World and New World Journal* 3
https://www.researchgate.net/publication/403824910_The_problematic_effectiveness_of_the_EU_sanctions_against_Russia accessed 7 May 2026.

their design, the sectors they target and the broader political relationship between the sender and the target state¹⁴².

Economic sanctions are among the most common restrictive measures in contemporary international relations and can be understood as measures to restrict or suspend economic and financial relations for foreign policy and security purposes. They may take different forms, including trade restrictions, asset freezes, travel bans and financial limitations. Unlike judicial mechanisms, sanctions are adopted by political actors and aim to influence the behavior state¹⁴³. Following, the end of the Cold War, sanctions became a widely used diplomatic instrument because, unlike military interventions, they seek to pressure states economically and politically without direct armed conflict¹⁴⁴. The underlying assumption is that states facing economic instability become more vulnerable and therefore more willing to compromise or negotiate. At the same time, sanctions allow the sender states to demonstrate commitment to international norms and international law, even when such measures also generate economic costs for themselves¹⁴⁵.

Sanctions should not only be understood exclusively as instruments aimed at compelling behavioural change. Contemporary scholarship suggests that sanctions may pursue different objectives simultaneously, namely coercing, constraining and signaling disapproval of conduct that violates internationally accepted norms.¹⁴⁶ It is important to highlight that the outcome of the restrictive measures is also based on the political relationship between the sender and the receiver: when sanctions are imposed between hostile states, they often fail to achieve the desired political outcome. On the contrary, sanctions tend to be more effective when they are imposed between states that maintain cooperative relations. In such cases, sanctions function

¹⁴² Ibid 3.

¹⁴³ Ibid 3; Jonathan Masters, 'What Are Economic Sanctions?' (Council on Foreign Relations, 12 August 2024) <https://www.cfr.org/backgrounders/what-are-economic-sanctions> accessed 13 March 2026; Ajay Kumar Godara, 'Economic Sanctions as Geopolitical Weapons: Structural Power, Intermediary States and the Fragmentation of Global Economic Order' (2026) 8(2) *International Journal of Political Science and Governance* 204, 206 <https://www.journalofpoliticalscience.com/uploads/archives/8-2-27-800.pdf> accessed 13 March 2026.

¹⁴⁴ Ibid.

¹⁴⁵ Śliwiński (n 141).

¹⁴⁶ Francesco Guimelli, *Coercing and Signaling: Explaining UN and EU Sanctions After the Cold War* (ECPR Press 2011) https://books.google.pt/books?id=icpMAQAAQBAJ&pg=PA74&hl=pt-PT&source=gbv_selected_pages&cad=1#v=onepage&q&f=false accessed 16 June 2026.

more as a signal of dissatisfaction and can lead to political adjustments without escalating the conflict further¹⁴⁷.

Scholars have also compared economic sanctions with aid suspensions and found evidence suggesting that the latter are often more effective. Economic sanctions rarely achieve ambitious goals such as regime change or major policy reversals¹⁴⁸. It has been noticed that in contemporary international politics, the global market provides to states alternatives making easier to adapt to economic pressure through import substitution, alternative trade networks and nationalist mobilisation around the government¹⁴⁹.

For this reason, sanctions should not only be judged on whether they fully achieve their objectives, but also on whether they perform better than alternative measures and generate some degree of political pressure on progress¹⁵⁰. Measures such as asset freezes, travel bans and arms embargoes, are often considered more effective because they target political elites more directly while limiting civilian suffering¹⁵¹.

Additionally, one of the main reasons sanctions may lose effectiveness is the increasing fragmentation of the international economic and political system. After the freezing of Russian state assets, many countries began reconsidering their dependence on the euro and the dollar¹⁵². In order to not be affected in the future they increased gold reserves and showed growing interest in alternative payment systems and central bank digital currencies¹⁵³. As a result, several states started distancing themselves from the Western financial system and explored ways to continue international transactions without relying entirely on Western banking infrastructure¹⁵⁴.

2.3.2 Criticism of the effectiveness of EU sanctions

¹⁴⁷ Śliwiński (n 141).

¹⁴⁸ Ibid 5; Claas Martens, 'Carrots as Sticks: How Effective Are Foreign Aid Suspensions and Economic Sanctions?' (2024) 68(2) *International Studies Quarterly* spae016
<https://academic.oup.com/isq/article/68/2/sqae016/7636632> accessed 15 March 2026

¹⁴⁹ Śliwiński, (n 141) 5.

¹⁵⁰ Ibid.

¹⁵¹ Ibid 10.

¹⁵² Maria Demertzis, 'The limits of the effectiveness of EU sanctions on Russia' (Bruegel 14 November 2023) <https://www.bruegel.org/opinion-piece/limits-effectiveness-eu-sanctions-russia> accessed 5 May 2026; Investopedia, 'Dollar Weaponization: What It Is and How It Works' <https://www.investopedia.com/dollar-weaponization-11753104> accessed 5 May 2026.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

The EU started from a position of vulnerability because of its heavy dependence on Russia gas and oil imports. Despite the imposing sanctions, the EU continued importing energy from Russia during the first phase of the war¹⁵⁵. This initial inconsistency highlights the structural constraints faced by the EU, as economic dependence limited its ability to fully align sanction policy with immediate strategic objectives. Furthermore, Gazprombank remained partially exempt from sanctions in order to facilitate energy-related transactions to Europe. It was only towards the end of 2022 that the EU significantly reduced seaborne Russian oil imports through embargo measures¹⁵⁶. Apart from the energy sector, economic relations between the EU and Russia were comparatively more limited than often assumed, meaning that some sanctions had a more indirect than direct impact on the Russian economy¹⁵⁷. This suggests that the overall economic impact of EU sanctions varied significantly across sectors, with certain measures producing only partial or delayed effects.

Another important issue concerned the lack of complete international coherence regarding sanctions policy. During the first stages of the war, several countries maintained neutral positions instead of fully condemning Russia. This fragmentation reduced the global uniformity of economic pressure on Russia and limited the potential cumulative impact of sanctions. Over time, this neutrality contributed to tensions within the international community, particularly as the war triggered energy insecurity and inflationary pressures worldwide¹⁵⁸.

As discussed previously, the EU adopted multiple sanctions packages against Russia in order to support its Common Foreign and Security Policy (CFSP)¹⁵⁹ objectives and respond to Russia's war of aggression against Ukraine. According to the EU, sanctions are carefully targeted, proportionate and temporary measures than can be modified, eased or lifted depending on political developments¹⁶⁰. Their primary objective is to maximise pressure on Russia while reducing its capacity to continue the war¹⁶¹. The expected outcomes include the

¹⁵⁵ Demertzis (n 152).

¹⁵⁶ Ibid; European Commission, 'REPower-phase out of Russian energy imports' https://energy.ec.europa.eu/strategy/repowereu-phase-out-russian-energy-imports_en accessed 15 March 2026.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ 'Common Foreign and Security Policy (CFSP)' (European Commission) https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/common-foreign-and-security-policy_en accessed 7 May 2026.

¹⁶⁰ Śliwiński (n 141).

¹⁶¹ Ibid.

withdrawal of Russian forces from Ukraine and respect for Ukraine's sovereignty and territorial integrity in accordance with the UN Charter and international law.

One of the most significant sanctions concerned the Russian energy sector, which represents a major source of state revenue. The EU aimed to reduce the Kremlin's ability to finance the war through oil embargoes and the G7 oil price cap mechanism¹⁶². According to official EU assessments, sanctions produced measurable economic consequences. Russian oil and gas revenues declined significantly compared to the pre-war period, while trade restrictions reduced Russia's trade volume substantially according to estimates by institutions such as the International Monetary Fund (IMF) and the World Bank¹⁶³.

However, the EU itself recognises the limitations of sanctions¹⁶⁴. Although the Russian economy was initially affected, Russia gradually adapted to the new economic environment. In this context, Russian authorities argue that the sanctions failed to achieve their objectives and even produced opposite results. According to Russian government statements, the economy stabilised after the initial shock and returned to growth rather than collapse¹⁶⁵.

Russia increased domestic production through import substitution policies and developed alternative import channels in order to bypass Western restrictions. At the same time, it redirected large parts of its trade towards non-Western markets, particularly China, India¹⁶⁶, BRICS countries (Brazil, Russia, India, China and South Africa), the Middle East and Latin America¹⁶⁷. The energy exports, especially oil and gas, got redirected to Asian markets, while economic cooperation with BRICS states intensified after 2022¹⁶⁸. In addition, Russian industries not only continued operating but expanded in certain sectors, particularly those linked to military production and strategic manufacturing. Consequently, it can be argued that

¹⁶² Timeline – 'EU sanctions against Russia' Council of the European Union (n 14); Ibid.

¹⁶³ Ibid; Council of the European Union, 'Impact of sanctions on the Russian economy' <https://www.consilium.europa.eu/en/infographics/impact-sanctions-russian-economy/> accessed 3 May 2026.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid; Philip Luck, 'How Sanctions Have Reshaped Russia's Future' (Center for Strategic and International Studies, 24 February 2025) <https://www.csis.org/analysis/how-sanctions-have-reshaped-russias-future> accessed 2 May 2026.

¹⁶⁶ TRT World, 'Russia redirects major oil exports from Europe to China, India: Deputy PM' (TRT World, 27 December 2023) <https://www.trtworld.com/article/16415123> accessed 7 May 2026.

¹⁶⁷ Śliwiński (n 141).

¹⁶⁸ Ibid; Charles Kennedy, 'Russia Shipped 80% of its 2025 Oil Exports to China and India' (OilPrice.com, 27 February 2026) <https://oilprice.com/Latest-Energy-News/World-News/Russia-Shipped-80-of-its-2025-Oil-Exports-to-China-and-India.html> accessed 1 May 2026.

sanctions unintentionally accelerated Russia's long-term economic independence from Western markets¹⁶⁹.

Finally, Russian authorities emphasised on the “boomerang effect” that the sanctions had in Europe itself. According to this argument, the EU suffered severe consequences including energy crises, inflation, industrial pressures and major corporate losses. Especially smaller states were strongly affected, creating tension in the aspect of providing support to Ukraine and completely cutting ties with Russia. Additionally, the global supply chain got disrupted affecting negatively third countries beyond Europe and Russia¹⁷⁰.

2.3.3 Internal challenges and cohesion problems within NATO-Economic and military burden-sharing

NATO had a quick reaction to the full-scale Russian invasion in Ukraine. The war, however, highlighted internal problems regarding the cohesion of the Alliance due to changes in international priorities and political disagreements among member states¹⁷¹. One of the most important factors that allows the Alliance to function effectively is cohesion between its members. Cohesion is necessary for allies to effectively deter external threats, as it also presents the Alliance as a strong and united actor. If problems in cohesion appear, the community can seem like an easier target, putting NATO's core collective defence commitment at risk¹⁷².

Furthermore, there is an imbalance regarding the economic and military contributions of member states in the Ukrainian war, since not all members are able to achieve the NATO target of spending 2% of Gross Domestic Product (GDP) on defence annually¹⁷³. In addition, a large

¹⁶⁹ Śliwiński (n 141); Philip Luck (n 165).

¹⁷⁰ Ibid; Sunday Independent Dispatch, ‘Boomerang Effect: Western sanctions on Russia's fleet at sea and the wider economic impact’ (13 December 2025) <https://sundayindependent.co.za/dispatch/2025-12-13-boomerang-effect-western-sanctions-on-russias-fleet-at-sea-and-the-wider-economic-impact/> accessed 8 May 2026

¹⁷¹ Heidi Hardt, ‘NATO after the invasion of Ukraine: how the shock changed alliance cohesion’ (2024) *International Politics* <https://link.springer.com/article/10.1057/s41311-024-00629-x> accessed 7 May 2026.

¹⁷² Ibid 2.

¹⁷³ Chris Dolan, ‘NATO, the Russian Invasion of Ukraine, and the 2022 Strategic Concept’ (Georgetown journal of International Affairs, 9 November 2022) <https://gija.georgetown.edu/global-governance/nato-the-russian-invasion-of-ukraine-and-the-2022-strategic-concept/> accessed 7 May 2026.

amount of defence spending is allocated to personnel rather than to modern technologies or military equipment, creating gaps in military capabilities compared to strategic competitors¹⁷⁴.

Another major issue concerns the energy crisis that emerged after the beginning of the war. Europe has been highly dependent on Russian gas and oil, and after the invasion Russia used this dependency as a means of political and economic pressure¹⁷⁵. Even though the USA attempted to stabilise the situation by increasing exports of petroleum and gas to in order to maintain NATO's unity, additional problems continue to arise. More specifically, Saudi Arabia's closer cooperation with Russia created further instability in the energy sector, since reductions in oil production affected prices and indirectly influenced the cohesion of the Alliance¹⁷⁶.

2.3.4 Political fragmentation and strategic divergence

Following these developments, political changes and redirection of strategic priorities occurred among the member states. In this context, the U.S wanting to restrict China's expansion and growing influence, reorientated its focus to the Indo-Pacific¹⁷⁷. Especially because of China's aggressive stance towards Taiwan and its growing control over technological developments. Therefore, U.S attempts to limit China's access to computer chips and artificial intelligence technologies¹⁷⁸. It also expanded its role in the Quadrilateral Security Dialogue, coming with an agreement on defence with AUKUS (Australia, the United Kingdom and the United States)¹⁷⁹ and announced the Indo-Pacific Economic Framework (IPEF)¹⁸⁰. As one of the strongest members of the Alliance, the U.S shift created uncertainty regarding NATO's identity and strategic priorities¹⁸¹.

Moreover, NATO is based on democratic values, the rule of law and respect for institutions¹⁸².

¹⁷⁴ Ibid.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ U.S. Department of War, 'AUKUS: The Trilateral Security Partnership Between Australia, The United Kingdom and the United States' (U.S Department of War) <https://www.war.gov/Spotlights/AUKUS/> accessed 7 May 2026.

¹⁸⁰ U.S. Department of Commerce, 'Indo-Pacific Economic Framework for Prosperity (IPEF)' (U.S. Department of Commerce) <https://www.commerce.gov/ipef> accessed 7 May 2026.

¹⁸¹ Dolan (n 173).

¹⁸² 'NATO's purpose' (n 96).

However, political developments before and during the war illustrated that NATO is not only facing external threats, but also internal political and ideological challenges which can influence the cooperation among the allies. Former U.S president Joe Biden framed the war as a conflict between “democracy vs autocracy”¹⁸³. Presenting the conflict as democratic states standing against autocratic regimes such as Russia, which creates controversy since member states of the Alliance themselves have demonstrated similar tendencies¹⁸⁴. More specifically, Hungary, Turkey and Poland have, in recent years, been criticised for democratic backsliding, creating a contradiction regarding how NATO presents itself as an alliance based on democratic values while some of its member states are accused of violating democratic principles¹⁸⁵.

In the following years, these internal tensions became even more visible with the election of the current USA President, Donald Trump. His political approach has often been characterised by a more pro-Russia attitude, confirmed also with attempts to improve relations between the two countries¹⁸⁶. At the same time, Trump has expressed skepticism towards NATO and towards continued support for Ukraine, creating further uncertainty within the Alliance¹⁸⁷. Simultaneously, Europe has experienced a rise in far-right political parties, raising questions regarding the extent to which these governments may influence NATO’s future common policies and strategic orientation¹⁸⁸.

These developments demonstrate that, even though the Alliance is based on common values and member states formally commit to respecting them, each state ultimately continues to act according to its own political and economic interests. As a result, internal disagreements and competing priorities can create instability within international organisations and challenge the achievement of their broader strategic aims.

2.3.5 Limits of NATO support and future risks

The arising issue is that a possible Russian victory could challenge the balance of power in Europe¹⁸⁹. Putin openly shows his aggressive position towards NATO and repeatedly warns

¹⁸³ Dolan (n 173).

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Schmitt (n 128).

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ Marek Menkiszak and Marta Prochwicz Jazowskam, ‘The ticking clock: Why NATO’s deterrence against Russia is under pressure’ (European Council on Foreign Relations, 16 February 2026)

that Russia will respond if it feels threatened by the military reinforcement of Europe and NATO¹⁹⁰. If Russia manages to impose new conditions, such as the demilitarisation of Ukraine, political influence over the country and control of Donbas, then it will gain greater military and political freedom to continue its aggressive foreign policy¹⁹¹. In addition, the end of the war could allow Russia to transfer military personnel close to NATO borders in Eastern Europe¹⁹².

As already mentioned, NATO is currently facing problems regarding cohesion, while Russia increasingly perceives NATO as vulnerable both politically and militarily. However, the political and military support that NATO receives from the United States still acts as a deterrent factor against Russian aggression¹⁹³. Therefore, NATO cohesion is highly dependent on the internal relationship between Europe and U.S. However, this relationship itself appears to face growing challenges that may affect the stability of the Alliance¹⁹⁴.

President Donald Trump has significantly influenced U.S foreign policy, which has contributed to changes in how Russia assesses the level of unity, stability and predictability within NATO and the broader European security environment¹⁹⁵. One of the most serious, although not the most likely, scenarios for European security would be a severe transatlantic crisis, for example if the US were to pursue actions towards Greenland. Such a development could lead to division among European states and significantly weaken NATO's cohesion¹⁹⁶. Another gradual but important risk is the possibility that Washington could reduce its military presence in Europe. This would create instability in the balance of security and power within the Alliance and could further undermine its overall strategic effectiveness¹⁹⁷.

As a response to these concerns, NATO Secretary General Jens Stoltenberg suggested the creation of a permanent long-term NATO fund which would finance Ukraine's military equipment and coordinate military support, a role that until now has mainly been conducted by

<https://ecfr.eu/article/the-ticking-clock-why-natos-deterrence-against-russia-is-under-pressure/> accessed 7 May 2026.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

the US¹⁹⁸. This proposal is based not only on the fear of Russian aggression, but also on European concerns regarding NATO's dependence on the US following Donalds Trump's return on presidency¹⁹⁹.

Lastly, although significant military assistance has been provided to Ukraine, NATO members have avoided giving the type of game-changing support that could allow Ukraine to fully repel Russian forces²⁰⁰. This limitation has raised questions regarding whether NATO is truly capable of shaping Europe's security environment and effectively countering Russian aggression²⁰¹.

Therefore, if NATO does not provide a sufficiently effective political and military and response to the war in Ukraine, there is a danger that Russia could gain a long-term military advantage on the battlefield. At the same time, the current tensions between Europe and USA continue to create instability regarding the future approach towards supporting Ukraine.

Ultimately, it is evident that the responses of both the EU and NATO demonstrate the broader limitations of international organisations when it is needed to confront acts of aggression committed by major powers. Although both organisations strongly condemned Russia's aggression towards Ukraine, by adopting extensive restrictive measures, the continuation of the war illustrates the gap between the formal prohibition of aggression under international law and the enforcement limitations due to political reasons. In this sense, these organisations represent the only collective response mechanism after the paralysis of the UNSC, due to the exercise of Russia's veto power.

This raises broader questions regarding how the crime of aggression has developed under international law, why accountability for aggression remains difficult to enforce in practice and what legal limitations continue to exist within the contemporary international legal system.

¹⁹⁸ Paul Taylor, 'How effective has NATO been in Ukraine?' (European Policy Centre, 27 June 2024) <https://www.epc.eu/publication/-How-effective-has-NATO-been-in-Ukraine-5c1e08/> accessed 7 May 2026.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Ibid.

Chapter 3. Crime of aggression and the limits of International legal enforcement

This chapter examines the historical development of the crime of aggression and analyses the existing legal framework governing its prosecution. It further explores the procedural limitations and accountability gaps that arise in practice, as well as the legal and political challenges that affect the enforcement of international law. In doing so the chapter primarily addresses the questions concerning the regulation of the crime of aggression and the challenges of the limitations of the law enforcement by the ICC.

3.1 Historical Development of the Crime of Aggression

As demonstrated in the previous chapter, despite the extensive responses adopted by the EU and NATO, significant limitations remain regarding the enforcement of accountability for acts of aggression. In contemporary international discourse, many states have invoked, the term “crime of aggression” in order to characterise certain unlawful uses of force. In the light of the Russian invasion of Ukraine in 2022, the term once again became central within both legal and political debates. However, before examining the crime of aggression through the lens of this contemporary conflict and the accountability limitations, it is essential to understand the historical and legal context in which the concept has developed.

The notion of aggression is neither static nor purely descriptive, rather it has developed over time through a complex process of legal and political transformation. For this reason, it is necessary to first examine its historical background aiming to demonstrate that the definition of aggression emerged through gradual legal evolution, starting as a political factor and later adopting a legal framework and the establishment of individual criminal responsibility under international law.

3.1.1 Early developments: World War I and the Paris Peace Conference

The criminalisation of aggression has been pursued overtime, particularly since the early 20th century, with the aim of establishing responsibility for those initiating such actions. The first steps towards the criminalization of aggression were highlighted, approximately, 100 years prior to the Kampala amendments²⁰². More specifically at the Paris Peace Conference of 1919, which took place with the aim of formally ending the WWI and establishing a Commission on the responsibility of the authors of war and enforcement of penalties²⁰³. The main aim was to hold responsible the states that in respect of a policy of aggression had declared war²⁰⁴.

The Commission was composed of 15 members, including representatives of Eastern European states²⁰⁵. They aimed to prosecute the Kaiser Wilhelm II, for the atrocities committed under his authority as reflected in the Treaty of Versailles²⁰⁶. However, no formal legal definition of aggression existed at the time, therefore despite the effort it did not lead anywhere yet.

This early attempt needs to be highlighted since the idea of holding leaders accountable for war emerged even at very early stages in history, but it remained politically driven and lacked a concrete legal framework limiting its practical impact.

3.1.2 The Interwar period and Early attempts to Define Aggression

During the interwar period there was not universally or legally an accepted legal definition of aggression²⁰⁷. The League of Nations constituted the main institutional framework attempting to regulate and prohibit the use of force in international relations; however, despite these

²⁰² Claus Kreb and Stefan Barriga (eds), *The Crime of Aggression: A commentary* (2 vols, Cambridge University Press 2017) 1177 accessed 3 April 2026.

²⁰³ Office of the Historian, U.S. Department of State, 'The Paris Peace Conference and the Treaty of Versailles' (Milestones in the History of U.S Foreign Relations, 1914-1920) <https://history.state.gov/milestones/1914-1920/paris-peace> accessed 3 April 2026.

²⁰⁴ Kreb and Barriga (n 202) 1177.

²⁰⁵ Ibid; Office of the Historian (n 203).

²⁰⁶ Kreb and Barriga (n 202) 1177; Jeremy Sarkin and Juliana Almeida, 'Understanding the Activation of the Crime of Aggression at the International Criminal Court: Progress and Pitfalls' (2019) 36 Wisconsin International Law Journal 522 https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2020/01/36.3_518-551_SarkinAlmeida.pdf accessed 10 April 2026.

²⁰⁷ Patrycja Grzebyk, 'Crime of aggression against Ukraine: The Role of Regional Customary Law' (2023) 21 (3) *Journal of International Criminal Justice* <https://academic.oup.com/jici/article/21/3/435/7295471> accessed 01 April 2026.

efforts, the concept of aggression remained legally unsettled and subject of continuous negotiations²⁰⁸.

In 1927, an important political development took place when the League of Nations unanimously adopted a resolution condemning wars of aggression stating that “all wars of aggression are, and shall always be, prohibited²⁰⁹”.²¹⁰ This marked a significant step in the historical development towards the later criminalisation of aggression but did not form yet a precise legal definition of aggression under the international law. Therefore, at this stage, the concept remained primarily political and normative in character rather than strictly criminal-legal.

Moreover, during the 1930s and more specifically through the 1933 London Conventions, an attempt was made to approach the definition of aggression in a more systematic and structured manner, with the aim of identifying the “aggressor state” based on specific criteria²¹¹. In this context, aggression was associated with acts such as the use of armed force, invasion of another state, or other forms of military attack²¹². This approach aimed to provide a greater legal clarity to the concept of aggression and to reinforce an objective assessment of unlawful use of force at the interstate level. Article 3²¹³ of the relevant framework emphasised that “no political military, economic or other considerations may serve as an excuse or justification for the aggression” explicitly excluding factors such as interstate instability or the political structure of a state. This illustrates an interstate legal framework in which no form of individual criminal responsibility was established²¹⁴. Although, these developments played an important role in influencing later legal developments, as reflected during the Nuremberg trials, where the main

²⁰⁸ Ibid.

²⁰⁹ League of Nations, ‘Resolution of the Third Committee concerning the Declaration on Wars of Aggression’ (24 September 1927) in *Nazi Conspiracy and Aggression* (U.S. Government Printing Office 1946) TC-18, Nuremberg Trials Project, Harvard Law School <https://nuremberg.law.harvard.edu/documents/2407-resolution-of-league-of-nations?mode=text> accessed 01 April 2026.

²¹⁰ Grzebyk (n 207).

²¹¹ Ibid.

²¹² Kathryn Sikkink, ‘Using the 1933 Soviet Definition of Aggression to Condemn Russia Today’ (Just Security, 24 May 2022) <https://www.justsecurity.org/81629/using-the-1933-soviet-definition-of-aggression-to-condemn-russia-today/> accessed 5 April 2026.

²¹³ Convention for the Definition of Aggression (signed 3 July 1933) 147 LNTS 67-81. <https://www.ijl.org/wp-content/uploads/2016/08/Convention-for-the-Definition-of-Aggression-1933.pdf>

²¹⁴ Grzebyk (n 207).

prosecutor Robert Jackson referred to them as “one of the most authoritative sources in international law subject”²¹⁵.

It is evident that this period after the previous attempts, highlights a turning point in the historical development of the concept of aggression, as it began to adopt a clearer legal structure and not only have political character.

3.1.3 Post-World War II and the Nuremberg Legacy

After WWII, the International Military Tribunal (IMT) at Nuremberg was established, highlighting a decisive step in the development of international criminal law²¹⁶. For the first time, acts of aggression were criminalised at an international level under the notion of “crimes against peace”²¹⁷, meaning that individuals could be prosecuted for actions carried out in the name of the state. According to Article 6 of the Nuremberg Charter²¹⁸, the Tribunal had jurisdiction to try persons who acted for the states interests, making a fundamental shift from state responsibility to individual criminal accountability. This development got further supported by Control Council Law No.10²¹⁹, which supplemented the Charter and reinforced the prosecution of such acts.

During the Nuremberg trials in his opening statement, it was emphasised by Chief prosecutor Robert Jackson, that aggressive war was understood as a crime against international society bringing within its scope other crimes committed in its preparation and execution²²⁰. In this sense, at the Nuremberg trials, crime of aggression was distinguished from other war

²¹⁵ Rober H Jackson, ‘Speech Text (1945) para 167 https://voicesofdemocracy.umd.edu/wp-content/uploads/2019/10/JACKSON_SPEECH-TEXT.pdf accessed 05 April 2026 accessed 12 April 2026; Grzebyk (n 207).

²¹⁶ Ibid.

²¹⁷ International Law Commission, ‘Principles of International Law Recognised in the Charter of the Nurnberg Tribunal and in the Judgment of the Tribunal’ (1950) Principle VI <https://ihl-databases.icrc.org/en/ihl-treaties/nuremberg-principles-1950/principle-vi> accessed 5 April 2026.

²¹⁸ Charter of the International Military Tribunal (signed 8 August 1945) art 6 (b) <https://ihl-databases.icrc.org/en/ihl-treaties/nuremberg-tribunal-charter-1945/article-6b> accessed 12 April 2026.

²¹⁹ Allied Control Council, *Law No 10: Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against Humanity* (20 December 1945) Official Gazette of the Control Council for Germany No 3 (1946) 50-55 <https://www.legal-tools.org/doc/ffda62/pdf/> accessed 3 April 2026.

²²⁰ Sarkin and Almeida (n 229) 523; Jackson, ‘Speech Text’ 1945 [17].

crimes and was framed as the “supreme international crime”²²¹. This marked the first real attempt to link the unlawful use of force with individual criminal responsibility at international level.

However, despite this significant development, the legal framework remained incomplete. Controversy was generated around the prosecution for crimes against peace, due to the absence of clear and universally accepted definition of aggression²²². Although the United Nations General Assembly in 1946 affirmed the principles established in the Nuremberg Charter and Judgment as a basis for the future of codification of international law²²³, still at this stage there was no adoption of precise legal definition of the crime of aggression.

Moreover, with the adoption of the UN Charter in 1945 a general prohibition on the use of force was introduced under Article 2(4)²²⁴. That way aggression was established as an unlawful act at the interstate level and embedding it within a system of collective security under Chapter VII²²⁵. This demonstrates that, even though the Charter did empower the UNSC to address threats to peace, breaches of peace and acts of aggression, it did not define what constitutes aggression. As a result, there was confusion around what can be considered as aggression. The absence of a structured definition and mechanism for individual criminal responsibility, left the legal framework incomplete.

3.1.4 Cold War Deadlock and Comparing Legal Approaches

A very important factor that delayed the definition of aggression was the Cold War. Even though Soviet Union was bringing the matter during the Dumbarton Oaks (1944) and San

²²¹ Kreb and Barriga (n 202) 1177.

²²² Jocelyn Getgen Kestenbaum, ‘Closing Impunity Gaps for the Crime of Aggression’ (2012) Chicago Journal of International Law <https://cjl.uchicago.edu/print-archive/closing-impunity-gaps-crime-aggression> accessed 4 April 2026

²²³ United Nations General Assembly, ‘Affirmation of the Principles of International Law Recognised by the Charter of the Nurnberg Tribunal’ GA Res 95(I) (11 December 1946) UN Doc A/RES/95(I) https://legal.un.org/avl/pdf/ha/ga_95-i/ga_95-i_ph_e.pdf#:~:text=On%2011%20December%201946%2C%20the%20General%20Assembly,of%20International%20Law%20and%20its%20Codification%20to accessed 05 April 2026.

²²⁴ UN Charter (n 3) art 2(4)

²²⁵ Chapter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) Chapter CII (Articles 39-51) <https://www.un.org/en/about-us/un-charter/chapter-7> accessed 05 April 2026

Francisco (1945) conferences²²⁶, the approach that the two sides were following was different, creating obstacles in the adoption of the definition. Western States supported a narrower and more flexible definition, favouring case-by-case assessment and preserving discretion in situations such as self-defense. On the other hand, Soviet Union and Eastern European States promoted a broader and more detailed definition, based on the principles of the 1933 London Conventions²²⁷.

This disagreement was not only legal, but it demonstrated the tension in that period and how two sides were envisioning the international law. From one side (Western States), they were aiming into legal clarity and restriction of state power and on the other side (Soviet Union and European States) were approaching this topic with more flexibility and aiming into more political capability. These contradictions proves once more that the crime of aggression was considered more a political topic rather than a legal one.

3.1.5 United Nations General Assembly Resolution 3314 (1974)

The historical shift towards the definition of aggression was with the adoption of Resolution 3314 by UNGA with consensus in 1974²²⁸. It was the first time that a general definition of aggression was agreed at a universal level, defining it as the use of force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the UN Charter²²⁹. The participation of the Soviet Union, Belarus and Ukraine is important not only from a historical perspective but also in the light of their continued relevance to contemporary conflicts involving the use of force.

It is important to mention, that despite the fact the Resolution gives a general definition of aggression and an enumerative list of acts, it also, gives space for interpretative flexibility. Article 4²³⁰, underlines that the list of acts is not exhaustive, therefore it preserves the authority

²²⁶ Grzebyk (n 207).

²²⁷ Ibid.

²²⁸ UNGA Res 3314 (XXIX) (14 December 1974) UN Doc A/RES/3314 (XXIX) [https://legal.un.org/avl/HA/da/da.html#:~:text=General%20Assembly%20resolution%203314%20\(XXIX\)%2C%20with%20the,the%20jurisdiction%20of%20the%20International%20Criminal%20Court](https://legal.un.org/avl/HA/da/da.html#:~:text=General%20Assembly%20resolution%203314%20(XXIX)%2C%20with%20the,the%20jurisdiction%20of%20the%20International%20Criminal%20Court), accessed 07 April 2026.

²²⁹ Sarkin and Almeida 524; United Nations, 'Audiovisual Library of International Law: Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States' (UN AVL) <https://legal.un.org/avl/HA/da/da.html> accessed 5 April 2026.

²³⁰ UNGA Res 3314 (XXIX) (14 December 1974) UN Doc A/RES/3314 (XXIX) (n 228) art 4.

of the UNSC to qualify additional conduct as aggression. In this provision, is clear that they try to find a compromise between the Soviet bloc's and Western States preferences in order to achieve a creation of the definition.

This compromise is also reflected in Article 2²³¹, which establishes that the first use of armed force in contravention of the UN Charter constitutes *prima facie* evidence of an act of aggression. In other words, the first use of force is treated as an initial legal presumption, but not as a final conclusion²³². For the Soviet Union and the Eastern European allies, this formulation represented a *sine qua non* condition for accepting the Resolution, as it reflected a broader legal tradition by emphasizing the prohibition of the first use of force²³³. On the other hand, Western countries, rejected any formulation that would automatically equate temporal priority with legal responsibility, since they were in favor of a contextual and case by case assessment²³⁴.

At first glance, Article 2²³⁵ may be considered that it adopts the Soviet preference. In reality however, it operates as “safety valve”, giving the “power” to the UNSC to conclude that a determination of aggression would also encounter other factors, including the gravity and the consequences of the act²³⁶. Thus, the initial presumption can be rebutted depending on the context. This illustrates the dual character of the provision, combining both legal criteria with political evaluation. A particular important aspect, which should not be overlooked from a historical perspective, is the contribution of Eastern European States in promoting the idea that the state which first uses force should be considered responsible for aggression²³⁷. This approach, which remains relevant when examining contemporary conflicts in the region, has significantly shaped the legal and political understanding of aggression. Additionally, it illustrates the importance and the inherent limitations of the 1974 compromise.

Furthermore, even after the recognition of aggression as an internationally wrongful act, there was still a remained significant gap between the prohibition of the use of force and the prosecution of individuals responsible for such acts. The UNGA Resolution 3314 contained a

²³¹ Un Charter (n 3) art 2.

²³² Grzebyk (n 207).

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Un Charter (n 3) art 2.

²³⁶ Grzebyk (n 207).

²³⁷ Ibid.

definition for aggression for international traditional law, but not for criminal law²³⁸. The absence of this factor demonstrates the need for the creation of a legal framework capable of transforming the prohibition of aggression into an enforceable international crime²³⁹. As for traditional international law the act of aggression is interconnected with the state giving legal power to the UNSC and the International Court of Justice (ICJ). While, on the other hand international criminal law relates to the actions of the individual and falls in the jurisdiction of the ICC²⁴⁰.

After the end of the cold war, and in the light of the crimes committed in the former Republic of Yugoslavia and Rwanda, the need to criminalise aggression at the individual level became more evident²⁴¹. In this context, the International Law Commission (ILC) drafted the Code of Crimes Against the Peace and Security of Mankind in 1996²⁴². Although this draft represented an important step towards the development of individual criminal responsibility for aggression, it did not contain a list of acts that would qualify as aggression, nor did it provide a clear definition of the crime itself²⁴³. As a result, despite its significance, the absence of these elements meant that the concept remained vague and lacked an operative criminal mechanism targeting individuals.

Overall, the historical development of aggression reflects a gradual shift from political condemnation to legal codification, without however resolving the issue of individual accountability. The gap between international law and international criminal law that remained after the 1996 Draft Code was later addressed by the adoption of the Rome Statute in 1998.

3.2 The legal framework of the crime of aggression

Building upon the historical development outlined above, which marked the gradual evolution

²³⁸ Sarkin and Almeida (n 229) 525.

²³⁹ Ibid.

²⁴⁰ Ibid.

²⁴¹ Sarkin and Almeida (n 229) 524.

²⁴² Ibid; International Law Commission, Draft Code of Crimes against the Peace and Security of Mankind with Commentaries (1996) UN Doc A/51/10, ch II
https://legal.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf.

²⁴³ International Law Commission 18-22.

of the concept of aggression, the adoption of the Rome Statute represents a decisive step its formal criminalisation under international law. It is therefore essential to examine the legal framework through which the crime of aggression is defined.

3.2.1 The Rome Statute and the crime of aggression

According to Article 8 bis of the Rome Statute the crime of aggression, means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression, which by its character, gravity and scale, constitutes a manifest violation of the UN Charter.²⁴⁴

The Rome Statute was adopted on 17 July 1998 by the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court²⁴⁵. The adoption of this Statute marked a decisive step in the evolution of international criminal justice and shifted accountability from states to individuals. It established a permanent judicial mechanism under which individuals can be prosecuted for the most serious crimes of concern to the international community²⁴⁶.

The Statute recognises four core crimes for which individuals can be held criminally responsible: genocide, crimes against humanity, war crimes and the crime of aggression²⁴⁷. These four crimes were included because they consisted the most serious violations under international law, although the inclusion of the crime of aggression was particularly controversial²⁴⁸.

There were several concerns regarding its inclusion and were based on the fact that crime of aggression still lacked a clear legal definition²⁴⁹. One of the most important related to humanitarian intervention, namely situations in which states use military force against another state in order to stop serious human rights violations. If such an intervention is carried out without the authorisation of the UNSC, it could potentially be classified as aggression, creating

²⁴⁴ Rome Statute (n 5) art 10.

²⁴⁵ Sarkin and Almeida (n 229) 525.

²⁴⁶ Ibid 526.

²⁴⁷ Rome Statute (n 5) p. 5-9.

²⁴⁸ Sarkin and Almeida (n 229) 526.

²⁴⁹ Ibid.

a paradox: a state intervening to protect human rights could at the same time be prosecuted for aggression²⁵⁰. Another concern related to the functioning of the ICC and the distinction between *jus ad bellum* and *jus in bello*. More specifically, there was a fear that if the ICC were to assess the legality of the use of force (*jus ad bellum*), this might influence the assessment of crimes committed during armed conflict (*jus in bello*)²⁵¹. In simple terms, individual criminal acts such as killings or abuses, which must be assessed independently of the legality of the conflict itself. Finally, some argued that the inclusion of the crime of aggression could undermine universality, as certain states might refuse to ratify or fully engage with the Rome Statute of aggression was included²⁵².

Those in favor of the inclusion of the aggression argued that it would have a deterrent effect, strengthen accountability and help fight impunity²⁵³. It was also supported that the criminalization of aggression had already been recognised in the Nuremberg Charter and had gradually developed into customary international law²⁵⁴.

These concerns were resolved through a compromise, as there was no clear agreement on how the crime of aggression would be incorporated into the jurisdiction of the ICC. The compromise was reached through the adoption of Articles 121 (4) and 121 (5)²⁵⁵ of the Rome Statute. Under this arrangement, the Court was not granted immediate jurisdiction over the crime of aggression. Instead, it was agreed that both the definition of the crime and the conditions under which the Court would exercise jurisdiction would be determined at a later stage through amendments to the Statute, in accordance with the procedures set out in Article 121 and 123 and in conformity with the UN Charter²⁵⁶.

States therefore had to wait several years before being able to propose or adopt amendments through the Assembly of State Parties (ASP) or a Review Conference under Articles 121 and

²⁵⁰ Ibid 527.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ International Nuremberg Principles Academy, 'Nuremberg Declaration on the Crime of Aggression' (8 May 2023) https://www.nurembergacademy.org/fileadmin/news_images/nuremberg-declaration-on-the-crime-of-aggression/Nuremberg_Declaration_on_the_Crime_of_Aggression.pdf accessed 10 April 2026.

²⁵⁵ Rome Statute (n 5) art. 121 (4) – 121 (5), 79.

²⁵⁶ Benjamin B Ferencz, 'Ending Impunity for the Crime of Aggression' (2009) 43 Case Western Reserve Journal of International Law, 283.

<https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1259&context=jil> accessed 10 April 2026.

123²⁵⁷. In this period, the issue remained unresolved at the operational level, despite being formally included in the Statute. In 2002, with the entry into force of the Rome Statute and the first meeting of the ASP, the Special Working Group on the Crime of Aggression (SWGCA) was established in order to clarify the definition of the crime and address outstanding issues relating to the Court's jurisdiction²⁵⁸. Article 5 paragraph 2²⁵⁹ provided:

The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.

As a result, the jurisdiction of the ICC over the crime of aggression did not operate in the same way as for the other three core crimes, in fact the ICC would begin to operate when 60 states ratified the treaty, something that happened not earlier than the 1st of July 2002²⁶⁰. In this sense, although the crime of aggression was formally included in the Rome Statute, its operationalisation revealed a deeper structural problem in international law: the existence of a prohibition on the use of force without a fully developed mechanism for individual criminal accountability. This explains why the crime of aggression remained in a state of suspension—not due to its lack of seriousness, but due to the absence of consensus on how the ICC should exercise jurisdiction. Accordingly, the Rome Statute can be understood as a transitional moment, recognising the need for the criminalisation of aggression at the individual level, while simultaneously demonstrating that such criminalisation remained incomplete, leaving a gap that would later be addressed through the Kampala Amendments in 2010.

3.2.2 The Kampala Amendments

²⁵⁷ Rome Statute (n 5) art. 121, 123, 79-80.

²⁵⁸ Sarkin and Almeida (n 229) 528.

²⁵⁹ Rome Statute (n 5) art. 5, 123, 3.

²⁶⁰ International Criminal Court, 'The ICC at a Glance; (Factsheet) <https://www.icc-cpi.int/sites/default/files/ICCAtAGlanceEng.pdf> accessed 12 April 2026.

The Review conference was held in Kampala, Uganda, from 31 May to 10 June 2010²⁶¹. Although other amendments were adopted, such as those relating to Article 8 on war crimes²⁶², the primary objective of the Conference was to address the unresolved issue of the crime of aggression²⁶³. In order to maintain the participation of States in this particular sensitive matter, the preparatory work of both the SWGCA and the Princeton Process proved essential in leading up to the Conference²⁶⁴.

During the Review Conference, three central issues were addressed. First, the definitions and elements that needs to be presented in order to be consider as a crime. Second, the conditions under which the ICC would exercise jurisdiction including the role of the UNSC, which constituted the most controversial aspect of the negotiations. Third, the jurisdictional regime concerning non-state parties and state parties that have not ratified the amendments, particularly with regard to state consent over their nationals²⁶⁵.

In response to these concerns, a set of “*Understandings*” was adopted, aimed at assisting the Court in interpreting the provisions introduced by the amendments²⁶⁶. These addressed, inter alia, issues relating to UNSC referrals, the exercise of domestic jurisdiction, jurisdiction *ratione temporis* and the interpretation of the crime of aggression itself²⁶⁷.

A key question during the negotiations was whether to adopt the definition of aggression contained in the UNGA Resolution 3314 1974, to rely on the work of the ILC, or to formulate a new definition²⁶⁸. Despite significant disagreement, consensus was reached on the definition of the crime of aggression as a leadership crime, limited to acts committed by individuals in positions of control over the political or military actions of a State²⁶⁹. Notably, acts committed

²⁶¹ Sarkin and Almeida 529, (n 229)

²⁶² Rome Statute (n 5) art. 8, 123, 5.

²⁶³ Sarkin and Almeida (n 229) 529.

²⁶⁴ Ibid.

²⁶⁵ Laura Marschner and Isabelle Olma, ‘The First Review Conference of the International Criminal Court’ (2010) 8 (4) *Journal of International Criminal Justice* 1257, 531-534
https://perso.unifr.ch/derechopenal/assets/files/obrasportales/op_20101107_01.pdf accessed 12 April 2026.

²⁶⁶ Dapo Akande, ‘What Exactly Was Agreed in Kampala on the Crime of Aggression?’ (EJIL: Talk!, 21 June 2010) <https://www.ejiltalk.org/what-exactly-was-agreed-in-kampala-on-the-crime-of-aggression/> accessed 12 April 2026.

²⁶⁷ Sarkin and Almeida (n 229) 529-530.

²⁶⁸ Ibid 530.

²⁶⁹ Eurojust, The Crime of Aggression in the National Laws of EU Member States, Genocide Network Observer States and Ukraine (September 2023), 5
<https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-crime-of-aggression-national-laws.pdf> accessed 13 April 2026; Sarkin and Almeida (n 229) 530; Heller (n 6) 478-479.

by non-state actors were excluded, an important limitation given that it would encompass acts such as the attacks of 9/11²⁷⁰.

The negotiations ultimately resulted in the adoption of Article 8 bis of the Rome Statute through the Kampala Amendments²⁷¹, defining the crime of aggression 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.

Therefore, act of aggression is considered “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another state or in any other manner inconsistent with the Charter of the United Nations”²⁷². The amendments also included a list of acts derived from UNGA Resolution 3314, without presenting it as exhaustive, preserving a degree of interpretative flexibility²⁷³.

With regard to jurisdiction, an important threshold requirement was introduced. In order for an act to qualify as a crime of aggression, it must constitute a manifest violation of the UN Charter assessed on the basis of its character, gravity and scale, as also reflected in *Understanding no.7*²⁷⁴. This threshold was designed, to exclude borderline cases, such as humanitarian intervention.

Additionally, *Understanding no.6*²⁷⁵ provides that the determination of whether a crime of aggression has been committed “requires consideration of all the circumstances of each particular case, including gravity of the acts concerned and their consequences, in accordance with the Charter of the United Nations”.

²⁷⁰ Sarkin and Almeida (n 229) 529-530.

²⁷¹ Rome Statute (n 5) art. 8, 123, 5.

²⁷² Ibid art 8(2) 5.

²⁷³ Sarkin and Almeida (n 229) 531; UNGA Res 3314 (XXIX) (14 December 1974) UN Doc A/RES/3314 (XXIX) (n 228) art 4.

²⁷⁴ Akande (n 266).

²⁷⁵ Ibid.

The adoption of Kampala amendments marks a turning point in the development of international criminal law, as for the first time a legal definition of the crime of aggression was established, along with a framework for the exercise of jurisdiction by the ICC. In this sense, a long-standing gap in international law was addressed, transforming aggression from a prohibited act at the interstate level into a prosecutable international crime under international criminal law. However, enforcement remains limited and politically dependent, demonstrating both the significance and the inherent limitations of the international criminal justice system.

3.2.3 Jurisdiction of the International Criminal Court

The effectiveness of the ICC in addressing the crime of aggression depends not only on its recognition within the Rome Statute, but primarily on the specific jurisdictional conditions under which the Court is able to act. Unlike the general regime of the Court, the jurisdiction may be triggered through State referral, *proprio motu* investigations, or UNSC referral under Article 13²⁷⁶.

In particular, the Kampala Amendments introduced a complex balance between judicial independence and political control, especially through the role of the UNSC. Despite the fact that, the UNSC may determine the existence of an act of aggression, its involvement does not fully bind the Court, as the ICC Prosecutor may proceed under specific procedural conditions, including review by the Pre-Trial Chamber²⁷⁷. This structure reflects an attempt to accommodate both the political responsibility of the UNSC for maintaining peace and security and the judicial autonomy of the Court.

However, this balance is significantly modified by two key provisions of the Kampala Amendments. First, Article 15 bis (4)²⁷⁸, introduce an opt-out mechanism²⁷⁹, allowing states parties to exclude themselves from the Court's jurisdiction over the crime of aggression, even without prior ratification of the relevant amendments²⁸⁰. Second, Article 15 bis (5)²⁸¹ excludes

²⁷⁶ Rome Statute (n 5) art 13 12.

²⁷⁷ Global Campaign for the Prevention of Aggression, 'Conditions for Action by the ICC' <https://crimeofaggression.info/role-of-the-icc/conditions-for-action-by-the-icc/> accessed 20 April 2026

²⁷⁸ Rome Statute (n 5) art 15bis (4) 14.

²⁷⁹ Sarkin and Almeida (n 229) 534;

²⁸⁰ Terje Einarsen, 'ICC's Jurisdiction over the Crime of Aggression: Amending Article 5 Instead of Article 15bis (Part I) (Opinio Juris, 18 April 2025) <https://opiniojuris.org/2025/04/18/iccs-jurisdiction-over-the-crime-of-aggression-amending-article-5-instead-of-article-15bis-part-i/> accessed 19 April 2026

²⁸¹ Rome Statute (n 5) art15 bis (5), 14.

entirely the jurisdiction of the Court over the acts of aggression committed by nationals of non-State parties or on their territory²⁸², thereby departing from the broader jurisdictional model applicable to the other core crimes under Article 12 of the Rome Statute²⁸³.

Taken together, these provisions demonstrate that the jurisdiction of the ICC over the crime of aggression is not universal, nor automatic, but instead conditioned by a combination of political discretion, state consent and structural limitations²⁸⁴. This reveals a fundamental characteristic of the regime: while the Kampala amendments represent a significant step towards the criminalisation of aggression, the enforcement of this crime remains inherently constrained since the jurisdiction is still based on political aspects and not only legal. What is obvious from what already said is that even though international law and the ICC are setting strong legal norms, the enforcement remains structurally dependent on states and political organs, leading to persistent accountability gaps.

3.2.4 Limitations of enforcement

The Rome Statute of the ICC remains the cornerstone of modern international criminal justice²⁸⁵. Although, significant steps have been taken towards prosecuting states and individuals for criminal acts, as defined in the Rome Statute, there are visible setbacks in its operation, making its jurisdiction lack enforcement²⁸⁶. The ICC lacks its own enforcement mechanisms, relying mostly on state cooperation to execute arrest warrants and collect evidence²⁸⁷. Under Article 86 of the Rome Statute²⁸⁸, in order for the ICC to act full cooperation of State Parties in investigations and prosecutions is required²⁸⁹.

²⁸² Einarsen (n 280).

²⁸³ Rome Statute (n 5) art 12, 12.

²⁸⁴ Sarkin and Almeida (n 229) 537-538.

²⁸⁵ Didik Setyo Nugroho and Joko Setiyono, 'International Criminal Accountability for War Crimes in the Ukraine-Russia Conflict: A Juridical Analysis Based on the 1998 Rome Statute' (2025) *International Journal of Social Science and Human Research* 08(09) 7154 https://www.researchgate.net/publication/395911325_International_Criminal_Accountability_for_War_Crimes_in_the_Ukraine-Russia_Conflict_A_Juridical_Analysis_Based_on_the_1998_Rome_Statute accessed 23 April 2026.

²⁸⁶ Ibid.

²⁸⁷ Ibid.

²⁸⁸ Rome Statute (n 5) art 86, 61.

²⁸⁹ Nicholas Sanjaya Suardi, Irene Gloria and Valencia Septiani, 'A Blunt Tool of Justice: The ICC's Ongoing Challenges in Enforcing Accountability' (PILS UNPAR, 2 December 2025) <https://pils.unpar.ac.id/2025/12/02/a-blunt-tool-of-justice-the-iccs-ongoing-challenges-in-enforcing-accountability/> accessed 23 April 2026.

One of the biggest drawbacks regarding the exercise of ICC jurisdiction arises when states are not parties to the Rome Statute, such as Israel and Russia²⁹⁰. These states have no legal obligation to cooperate with the ICC; therefore, failure to comply with Article 86²⁹¹ undermines the effectiveness of Article 87²⁹². Article 87 (5) of the Rome Statute²⁹³ attempts to address this gap by allowing the ICC to request cooperation of states that have not ratified the Statute. However, states are not obliged to accept such cooperation, and the ICC has no power to enforce compliance. It can only submit reports of non-compliance to the Assembly of State Parties or the UNSC²⁹⁴. Under Article 89²⁹⁵, states parties are legally obliged to cooperate with ICC arrest and surrender requests, but even in these cases, if states party do not comply, the Court has no enforcement mechanism and can only respond through political exposure. This demonstrates the existence of an enforcement gap, where a legal framework exists but enforcement mechanisms are absent²⁹⁶.

Additionally, Article 98²⁹⁷ creates a bigger complexity, as it allows a state to refuse arrest and surrender if this would conflict with other international obligations, particularly those concerning immunity of high-ranking officials. This provision is often used to avoid the prosecution of government officials²⁹⁸.

What is evident is that although the ICC has legal authority, its effectiveness relies on the cooperation of states and their political choices²⁹⁹. The prosecution depends on state cooperation under Article 89³⁰⁰ and under Article 93³⁰¹ for evidence collection. However, enforcement depends on the willingness of states. In March 2023, an arrest warrant was issued against Putin, highlighting the limitations of enforcement, as arrest is unlikely unless he travels to a cooperating state.³⁰²

²⁹⁰ Ibid.

²⁹¹ Rome Statute (n 5) art 86, 61.

²⁹² Rome Statute (n 5) art 87, 61.

²⁹³ Rome Statute (n 5) art 87(5), 61.

²⁹⁴ Suardi and others (n 289).

²⁹⁵ Rome Statute (n 5) art 89 62.

²⁹⁶ Suardi and others (n 289).

²⁹⁷ Rome Statute (n 5) art 98 70.

²⁹⁸ Suardi and others (n 289).

²⁹⁹ Coalition for the International Criminal Court, 'State Cooperation'

<https://www.coalitionfortheicc.org/state-cooperation> accessed 23 April 2026.

³⁰⁰ Rome Statute (n 5) art 89 62-63.

³⁰¹ Rome Statute (n 5) art 93 66-68.

³⁰² Nugroho and Setiyono (n 285) 7154.

Another dimension of jurisdiction relates to the principle of complementarity under Article 17 of the Rome Statute³⁰³. This principle establishes that the ICC acts only when national jurisdictions are unwilling or unable to genuinely prosecute international crimes³⁰⁴. Even though Ukraine has shown willingness to pursue domestic prosecutions against crimes committed by Russian soldiers, the scale and gravity of the crimes, combined with the involvement of Russian officials, make it clear that Ukraine cannot address all cases domestically³⁰⁵. Ultimately, the ICC plays a crucial complementary role in prosecuting high-profile suspects, acting as a safety net to prevent impunity³⁰⁶.

Apart from negative aspects highlighted by the war, important steps have also been taken, although they still reflect the same gap. The Register of Damage³⁰⁷ has been created to keep document losses and evidence during the conflict³⁰⁸. It has no jurisdictional power and cannot provide justice or compensation³⁰⁹. Additionally, the need for a specific court for the crime of aggression has emerged, since the ICC cannot exercise jurisdiction without a trigger from the UNSC³¹⁰.

This confirms that although international law establishes binding legal frameworks, its enforcement remains politically dependent, establishing the monitoring mechanisms weak and creating accountability gaps.

The historical background was particularly important in order to highlight the complex nature of this crime and how it evolved over time. It is evident that certain aspects of its early development still persist, particularly its political character. More specifically, the crime of aggression represents one of the clearest examples of the tension between legal normativity and political reality in international law. Essentially, it becomes necessary to consider what alternative legal avenues may emerge in response to the war in Ukraine. In this context, it will be examined the ongoing discussion for the establishment of a Special Tribunal for the Crime

³⁰³ Rome Statute (n 5) art 17 15.

³⁰⁴ Nugroho and Setiyono (n 285) 7157.

³⁰⁵ Ibid.

³⁰⁶ Ibid.

³⁰⁷ Council of Europe, 'Register of Damage for Ukraine (RD4U)' <https://www.rd4u.coe.int/en/> accessed 24 April 2026.

³⁰⁸ European Council on Foreign Relations, 'Ukraine and the Limits of International Justice' <https://www.epis-thinktank.com/publications/ukraine-and-the-limits-of-international-justice> accessed 24 April 2026.

³⁰⁹ ECFR (n 308).

³¹⁰ Ibid.

of Aggression against Ukraine and the complementary role of sanctions and institutional responses in supporting accountability mechanisms.

Chapter 4: Responding to the Crime of Aggression: Legal Avenues and Political Constraints

The Russian-Ukraine war has been marked as one of the most significant challenges international law has faced since WWII. The annexation of Crimea in 2014 and the subsequent full invasion of Ukraine by Russia in February 2022 raised serious concerns regarding the enforcement of both international humanitarian law and international criminal law³¹¹. Moscow attempted to justify the use of force by alleging that Ukraine had committed genocide in the Donbas since 2014, a claim entirely devoid of legal or factual foundation³¹².

In the previous chapters were analyses the reactions of international organisations to Russia's aggression against Ukraine, as well as the evolution of the crime of aggression from predominantly political concept into an internationally recognised crime capable of giving rise to individual criminal responsibility. It becomes evident that Russia's invasion represents not only a threat to Ukraine's sovereignty but also challenge to the fundamental principles upon which the contemporary international legal order is based. This explains the international response to the war and the renewed emphasis on accountability mechanisms.

This chapter addresses the third, fourth and fifth sub-questions of the thesis. It examines to which existing legal mechanisms are capable of ensuring accountability for the crime of aggression and analyses the legal and political challenges surrounding the establishment of a Special Tribunal for the Crime of Aggression against Ukraine. Furthermore, the chapter explores whether the responses adopted by the European Union and NATO, particularly though sanctions and broader political and security measures, can operate as complementary mechanisms supporting accountability for serious violations of international law.

4.1 The accountability gap in the prosecution of the crime of aggression

³¹¹ Ibid.

³¹² International Court of Justice, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v Russia Federation)* (Order/Judgment, as applicable) ICJ Reports/ Case No 182 (2024) <https://www.icj-cij.org/node/203515> accessed 23 April 2026.

As analysed in Chapter 3, although the crime of aggression has been incorporated into the Rome Statute, the ICC's jurisdiction over the crime remains considerably more limited than its jurisdiction over genocide, crimes against humanity and war crimes. Building upon the previous discussion, this chapter examines how these jurisdictional limitations affect the attribution of accountability in the context of the Russia-Ukraine war and why alternative mechanisms, such as the proposed Special Tribunal, emerged as potential solutions.

The ICC is the first permanent treaty-based international criminal tribunal established to ensure individual criminal responsibility and constitutes the principal institution through which contemporary international criminal law is expressed and enforced. As reflected in the Rome Statute and further clarified through the Kampala Amendments the Courts exercises jurisdiction over four crimes: genocide, crimes against humanity, war crimes and crime of aggression³¹³.

Importantly, the crime of aggression is characterized as a leadership crime, in the sense that it can only be committed by individuals in a position effectively to control or direct the political or military action of a state³¹⁴. Fundamentally, the crime of aggression always results from collective action involving a plurality of individuals and is attributable to political and military leaders, as well as other senior officials who plan, prepare initiate or execute an act of aggression³¹⁵.

International criminal law contemplates two principal mechanisms for the enforcement of international crimes: domestic court and international criminal tribunals. In principle, national courts constitute the ideal forum for prosecuting crimes, including international crimes³¹⁶. This is mainly because crimes occur within a specific territorial jurisdiction, and the perpetrators, victims, witnesses and evidence are most likely to be located in the area that the crime was

³¹³ Jocelyn Getgen Kestenbaum, 'Closing Impunity Gaps for the Crime of Aggression' (2016) 17(2) *Chicago Journal of International Law* <https://cjl.uchicago.edu/print-archive/closing-impunity-gaps-crime-aggression> accessed 30 May 2026.

³¹⁴ Eurojust, *The Crime of Aggression in the National Laws of EU Member States, Genocide Network Observer State and Ukraine* (October 2023) 11 <https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-crime-of-aggression-national-laws.pdf> accessed 30 May 2026.

³¹⁵ Ibid.

³¹⁶ Kestenbaum (n 313).

committed³¹⁷. Jurisdiction is traditionally based on the principle of territoriality³¹⁸, according to which a state may exercise criminal jurisdiction over acts committed within its territory. Similarly, under the principle of active nationality, states may apply their criminal laws to their own nationals even when offences are committed abroad³¹⁹.

Therefore, the ICC operates on the basis of the principle of complementarity³²⁰ and does not replace genuine domestic proceedings. However, a major problem arises when international law expects states to prosecute their own leaders or nationals responsible for committing a crime of aggression against another country. In practice, governments are often unwilling to prosecute their own high-ranking political or military officials³²¹.

Consequently, accountability for the crime of aggression requires a broader approach than one based exclusively on territoriality and active nationality. Domestic courts are not necessarily limited to offences committed within their territory or by their nationals but may rely on additional extraterritorial bases of jurisdiction.

In the *SS Lotus* case, the Permanent Court of International Justice (PCIJ)³²² held that, although the territorial character of criminal law constitutes a fundamental principle, it is not an absolute principle of international law. Accordingly, states are not strictly confined by their territorial borders when exercising criminal jurisdiction³²³.

The ICC's jurisdiction over the crime of aggression is considerably more limited than its jurisdiction over the other three core crimes. While genocide, crimes against humanity and war crimes are governed by the general regime established under Article 12 of the Rome Statute³²⁴,

³¹⁷ Ibid.

³¹⁸ International Committee of the Red Cross, *General Principles of International Criminal Law* (Advisory Service on International Humanitarian Law, 2014) 2 https://www.icrc.org/sites/default/files/document/file_list/dp_consult_34_general_principles_icl_0.pdf accessed 22 April 2026.

³¹⁹ Kestenbaum (n 313).

³²⁰ Office of the Prosecutor of the International Criminal Court, *Informal Expert Paper: The Principle of Complementarity in Practice* (ICC-OTP 2003) 3 <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/20BB4494-70F9-4698-8E30-907F631453ED/281984/complementarity.pdf> accessed 29 May 2026.

³²¹ Kestenbaum (n 313).

³²² *The Case of the S.S. 'Lotus' (France v Turkey)* (Judgment) PCIJ Series A No 10 (Permanent Court of International Justice, 7 September 1927) https://www.worldcourts.com/pcij/eng/decisions/1927.09.07_lotus.htm accessed 30 May 2026.

³²³ Ibid [50].

³²⁴ ICC, Rome Statute (n 5) art 12.

the crime of aggression is subject to a special and considerably more restrictive jurisdictional framework³²⁵.

Under Article 12³²⁶, the Court may exercise jurisdiction not only when a crime is committed on the territory of a State Party or by one of its nationals, but also when a non-state Party accepts the Court's jurisdiction through an ad hoc declaration under Article 12(3)³²⁷. Such declarations enable the ICC to investigate genocide, crimes against humanity and war crime in relation to non-State Parties.

On the contrary, Article 15 bis³²⁸ establishes more restrictive regime regarding the crime of aggression. Consequently, the Court cannot exercise jurisdiction over aggression in the same manner as it does for the other core crimes, even when the alleged conduct involves the territory or nationals of a State Party³²⁹.

In other words, the protective umbrella that Article 12 provides does not apply to the crime of aggression in the same way as it does to the remaining crimes within the Court's jurisdiction. Furthermore, as it was analysed in Chapter 3, Article 15 bis (4) introduces an opt-out mechanism, which allows states to declare that they do not accept the Court's jurisdiction over the crime of aggression³³⁰.

As a result, in the context of the Russia-Ukraine war, Ukraine has accepted the Court's jurisdiction under Article 12(3)³³¹, enabling ad hoc that way the mandate of the Office of the Prosecutor (OTP) to investigate genocide, war crimes and crimes against humanity. However, the Court lacks jurisdiction over the crime of aggression due to Article 15bis (5)³³². Ultimately, Article 12(3)³³³ declarations are insufficient to overcome the jurisdictional limitations established by Article 15bis³³⁴.

³²⁵ Einarsen (n 280).

³²⁶ ICC, Rome Statute (n 5) art 12.

³²⁷ ICC, Rome Statute (n 5) art 12 (3).

³²⁸ ICC, Rome Statute (n 5) art 15bis.

³²⁹ European Center for Constitutional and Human Rights (ECCHR), *Reform of the ICC's Jurisdiction over the Crime of Aggression: Information Brief* (ECCHR 2025)

https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_CoA_Information_Brief.pdf accessed 30 May 2026.

³³⁰ Ibid.

³³¹ ICC, Rome Statute (n 5) art 12 (3).

³³² ICC, Rome Statute (n 5) art 15 bis (5).

³³³ ICC, Rome Statute (n 5) art 12 (3).

³³⁴ Ibid ICC, Rome Statute (n 5) art 15bis.

Moreover, in order to activate the Court's jurisdiction over aggression, it would be required an ad hoc acceptance not only by the victim state, but also by the aggressor state³³⁵. Since Russia is neither a State Party to the Rome Statute and nor has accepted the Court's jurisdiction over aggression, it does not recognise the Court's authority in this regard³³⁶. Consequently, the current legal framework creates a significant accountability gap, as the ICC is unable to prosecute the crime of aggression committed against Ukraine despite exercising jurisdiction over the other core international crimes.

4.1.2 The Role of the United Nations Security Council and the Political Nature of Aggression Determinations

One of the biggest obstacles faced by the ICC in relation to the prosecution of the crime of aggression is its structural dependency on the UNSC. As discussed in Chapter 3, the Rome Statute grants the UNSC an important role regarding the activation and exercise of jurisdiction over aggression.

The UNSC is the principal organ responsible for the maintenance of international peace and security under the UN Charter. It consists of fifteen members, each possessing one vote. Five of these members -Russia, China, United Kingdom, United States and France- are permanent and enjoy the privilege of veto power. Under Chapter VII of the Charter, UNSC has the authority to determine the existence of threats to the peace, breaches of the peace or acts of aggression, while its decisions are binding upon all UN member states. The relationship between the UNSC and the ICC established through the Rome Statute, which grants this political body significant powers to trigger, influence and even suspend judicial proceedings³³⁷.

³³⁵ Coalition for the International Criminal Court, *The Crime of Aggression within the Rome Statute of the International Criminal Court (Factsheet)* (27 November 2019) https://www.coalitionfortheicc.org/sites/default/files/cicc_documents/CICC-%20Factsheet%20Crime%20of%20Aggression%20Final-%20changes%2027Nov2019.pdf accessed 26 May 2026.

³³⁶ Sem Amin, 'The ICC Limits in Prosecuting the Crime of Aggression: Re-examining Article 15bis (5) of the Rome Statute in the Context of Russia's Invasion of Ukraine' (2026) 9(2) *International Journal of Law and Society* 262, 265. https://www.researchgate.net/publication/405383538_The_ICC_Limits_in_Prosecuting_the_Crime_of_Aggression_Re-examining_Article_15_Bis_5_of_the_Rome_Statute_in_the_Context_of_Russia's_Invasion_of_Ukraine accessed 25 May 2026.

³³⁷ Parliamentarians for Global Action, 'The Rome Statute and the UN Security Council' <https://www.pgaction.org/ilhr/rome-statute/unsc.html> accessed 20 May 2026

Article 39 of the United Nations³³⁸ gives the UNSC the authority to determine the existence of a threat to the peace, breach of the peace or act of aggression³³⁹. Consequently, the Council has a central role within the collective security system established by the Charter. However, this raises important questions concerning the definition of aggression and the extent to which the UNSC should possess exclusive authority over such determinations³⁴⁰.

Different models have been proposed regarding the role of the UNSC in the prosecution of the crime of aggression. First, the *exclusive determination schemes* provides that criminal proceedings may only be initiated if the UNSC has determined that an act of aggression has occurred. Therefore, the Council has the exclusive authority to determine the existence of aggression³⁴¹. Secondly, under the *time-limited determination schemes*, the UNSC is given a specific period of time to decide whether an act of aggression has taken place. If no decision is reached within that period, other bodies, such as the ICC, the UNGA or the ICJ, may take over that function³⁴². Thirdly, under the *exclusive referral schemes*, the UNSC does not determine the existence of aggression but rather enjoys the exclusive authority to activate the jurisdiction of the ICC through a referral³⁴³. Lastly, under the *independent schemes*, the exercise of jurisdiction does not depend on a prior determination or referral by the UNSC³⁴⁴, as bodies such as the ICC or the ICJ may independently assess whether an act of aggression has occurred.

However, the practice of the UNSC demonstrates that the determination of aggression has not always been consistent. More specifically, in the Resolution 405 concerning the Benin case, the Council characterise the attack which was carried out by mercenaries as an act of “armed aggression”, despite the absence of a clear attribution of the conduct to a particular state³⁴⁵. Conversely, in other cases which involved invasion, occupation or annexation of a territory, the Council avoided using the term of aggression. This inconsistency practice suggests that the

³³⁸ United Nations, Codification Division, *Repertory of Practice of United Nations Organs: Article 39 of the Charter of the United Nations* <https://legal.un.org/repertory/art39.shtml> accessed 10 May 2026

³³⁹ Ibid

³⁴⁰ Andrew N Keller, ‘Punishment for Violations of International Criminal Law: An Analysis of Sentencing at the ICTY and ICTR’ (2001) 12(1) *Indiana International Comparative Law review* 53, 13 <https://mckinneylaw.iu.edu/practice/law-reviews/iiclr/pdf/vol16p1.pdf> accessed 12 May 2026

³⁴¹ Ibid 3.

³⁴² Ibid.

³⁴³ Ibid.

³⁴⁴ Ibid.

³⁴⁵ United Nations Security Council, *Repertoire of the Practice of the Security Council, 1975-1980*, Chapter VIII: *Complaint by Benin* https://main.un.org/securitycouncil/sites/default/files/en/sc/repertoire/75-80/Chapter%208/75-80_08-20-Complaint%20by%20Benin%20.pdf accessed 23 May 2026.

qualification of aggression has often been influenced by political considerations rather than stable legal criteria³⁴⁶.

As a result, several authors have argued that the UNSC, does not operate in a manner comparable to a judicial body. If the prosecution of the crime of aggression before the ICC were made fully dependent upon a prior determination by the Council, the political inconsistencies that characterise the Council's practice could directly affect the administration of international criminal justice³⁴⁷. In this sense, the dependence of the prosecution of aggression upon a political organ raises questions regarding the politicalization of international criminal justice and further illustrates the tension between legal normativity and political reality in the enforcement of the crime of aggression.

4.1.3 Structural Dependence on the Security Council and the Veto Problem

Although Article 39 grants the UNSC an important role in identifying situations involving aggression, it does not necessarily establish an exclusive legal monopoly over such determinations³⁴⁸. Some interpretations have argued that the Council enjoys exclusive authority in this field; however, such a conclusion is not expressly supported by the wording of the Charter itself.

This issue becomes particularly significant in the context of the ICC. While the Court is formally an independent judicial institution, its ability to exercise jurisdiction over aggression remains closely connected to the involvement of the UNSC under Article 13(b) of the Rome Statute³⁴⁹. In other words, even though the ICC is formally an independent judicial body, its ability to deal with aggression cases remains structurally dependent upon a political organ.

This can also be illustrated through Article 51 of the UN Charter, which recognises the inherent right of individual and collective self-defense. States are therefore able to respond to an armed attack without waiting for a prior determination by the UNSC³⁵⁰. This demonstrates that, in practice, the initial characterisation of a situation as aggression is not fully monopolised by the

³⁴⁶ Keller, 'Punishment for Violations of International Criminal Law' (n 338).

³⁴⁷ Ibid.

³⁴⁸ *UN Repertory: Article 39* (n 338)

³⁴⁹ Rome Statute (n 5) art 13(b).

³⁵⁰ *UN Repertory: Article 51* (n 338).

Council in practice. Therefore, the argument that Article 39³⁵¹ establishes an absolute and exclusive authority on the determination of aggression is not entirely true.

This issue is highly important regarding the mandate of the ICC. If the Article 39³⁵² is not understood as giving an absolute and exclusive authority to the UNSC to define aggression, then there is no strong legal reason why the prosecution of the crime of aggression should always depend upon prior UNSC involvement. Yet in practice, the Rome Statute still preserves a strong form of dependency. Article 13(b) enables the UNSC to refer situations to the Court³⁵³, while Article 16 allows it to defer investigations or prosecutions, with such deferrals being renewable indefinitely³⁵⁴.

4.1.4 Veto Power, Sovereign Equality and the Structural Accountability Gap

The structural accountability gap becomes even more evident when considering the veto power enjoyed by the permanent members of the UNSC. In practice, the central issue derives from the supremacy awarded upon to the P5³⁵⁵. Through the exercise of veto, permanent members possess the effective ability to block decisions and recommendations within the Security Council, including those concerning the determination of aggression under Article 39³⁵⁶. Thus, political considerations may prevent the activation of legal mechanisms designed to address serious violations of international law.

The veto powers also represent a clear departure from the principle of sovereign equality embodied in Article 2(1) of the UN Charter³⁵⁷. This principle is based on the idea of juridical equality of states, meaning that all states are equal before international law. However, the existence of the veto creates a structural hierarchy within the UN system, granting five states a privilege legal position that is not available to others³⁵⁸.

³⁵¹ *UN Repertory: Article 39* (n 338).

³⁵² *Ibid.*

³⁵³ Rome Statute (n 5) art 13(b).

³⁵⁴ *Ibid* art 16.

³⁵⁵ Keller, 'Punishment for Violations of International Criminal Law' (n 338) 7.

³⁵⁶ *UN Repertory: Article 39* (n 338).

³⁵⁷ *UN Repertory: Article 2(1)* (n 338).

³⁵⁸ Keller, 'Punishment for Violations of International Criminal Law' (n 338) 6.

This issue is particularly evident in the context of Russia-Ukraine war. Since Russia is a permanent member of the UNSC, its veto power makes any determination of aggression by the Council highly unlikely³⁵⁹. As a result, the universality of the Rome Statute is questioned, since its jurisdictional provision may be effective on paper but limited in practice when applied against powerful non-member states³⁶⁰.

This is particularly problematic in the context of exclusive determination schemes for the crime of aggression, where the UNSC effectively becomes the only body capable of triggering the relevant determination before prosecution can proceed. Under such circumstances, any permanent member can block a determination, even where strong legal and factual evidence exists. As a result, the system risks creating a form of de facto immunity for the permanent members and their leadership³⁶¹.

This is why accountability gap surrounding the crime of aggression is not only procedural but structural in nature. It is embedded in the constitutional design of the UN system itself. The Russia-Ukraine war clearly illustrates this problem, as Russia's veto power prevents any UNSC determination that could enable a collective legal response despite the widespread recognition of the existence of aggression.

From this perspective, Article 2(1)³⁶² can also be used as a normative argument against further departures from sovereign equality in the interpretation of UNSC powers. Any such inequality, especially when it translates into immunity from accountability for the crime of aggression, should not be assumed unless it is clearly and explicitly required by the UN Charter itself³⁶³.

Considering this analysis, it is evident that the crime of aggression still withholds a political character. Even though the Kampala Amendments it was formally activated the ICC's jurisdiction, the prosecution of the crime itself remains closely dependent on the political considerations and the institutional structure of the UN. In this context, it is obvious the historical connection through its evolvement, that still demonstrates that the crime of

³⁵⁹ Ibid 7158.

³⁶⁰ Ibid.

³⁶¹ Keller, 'Punishment for Violations of International Criminal Law' (n 338) 7-8.

³⁶² UN Charter (n 3) art 2(1).

³⁶³ Keller, 'Punishment for Violations of International Criminal Law' (n 338) 6-7.

aggression stands as a clear example representing the tension between legal normativity and political reality in international law.

4.2 The Special Tribunal for the Crime of Aggression

The accountability gap addressed above extends to the fact that, although the ICC can prosecute many core crimes, it lacks jurisdiction over the crime of aggression³⁶⁴. As a result, there is concern that individuals in high-ranking positions may escape legal accountability altogether, even in cases involving grave breaches of the UN Charter.

Discussions have therefore emerged on how justice can be ensured, particularly since Russia, as a permanent member of the UNSC, has blocked any determination of aggression and consequently any referral to the ICC. Thus, proposals for the creation of Special Tribunal have been developed, although the process cannot be characterized as either immediate or straightforward³⁶⁵.

There were several hesitations regarding the establishment of such a tribunal, the first being political in nature. Although the UNGA has condemned Russia's actions and diplomatic responses have been supported, the question arose as to whether this unity would extend to more legally and institutionally binding steps for the creation of a judicial body³⁶⁶. More specifically, concerns emerged that hesitations among Ukraine's key military or strategic partners regarding the establishment of a Special Tribunal could produce a broader chilling effect within the UN membership, discouraging other states from supporting the initiative and thereby undermining the prospects for broad international backing³⁶⁷.

The second major concern related to the institutional structure. It was argued that the creation of a new tribunal can be perceived as undermining the ICC or implying that it is insufficient to address the crime of aggression³⁶⁸. This argument is rooted in the original rationale for the

³⁶⁴ Pamilla Andreasson, 'Reviewing the Crime of Aggression: A Defining Moment for International Criminal Law' (4 July 2025) *Global Challenges Foundation* <https://globalchallenges.org/updates/reviewing-the-crime-of-aggression-a-defining-moment-for-international-criminal-law/> accessed 3 May 2026.

³⁶⁵ Christian Wenaweser and Sina Alavi, 'A Special Tribunal for the Crime of Aggression Against Ukraine: Origins, Debates, and Implications' (7 February 2026) *Yale Journal of International Law* <https://yjil-yale-edu.translate.goog/posts/2026-02-07-a-special-tribunal-for-the-crime-of-aggression-against-ukraine-origins-debates-and? x tr sl=en& x tr tl=el& x tr hl=el& x tr pto=sc> accessed 13 April 2026.

³⁶⁶ Ibid.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

ICC's establishment in 1998³⁶⁹, namely that a permanent international criminal judicial body would eliminate the need for ad hoc tribunals. Therefore, the creation of a new tribunal could be perceived as a step backwards, potentially fragmenting the system of international criminal justice and weakening confidence in the ICC as the central institution in this field³⁷⁰.

This view was also supported by the ICC Prosecutor, Karim Khan, who publicly stated that the establishment of a separate Special tribunal could dilute the ICC's relevance. His counter-suggestion was that states should instead strengthen the ICC's mandate by expanding its jurisdiction to include the crime of aggression³⁷¹. However, many states considered this approach unrealistic in the context of Ukraine, as it would require extensive time and political negotiations to amend the Rome Statute. As a result, the Prosecutor's statement triggered a wave of diplomatic reactions, particularly from Ukraine³⁷².

Ultimately, the decisive argument in favor of establishment a Special tribunal was grounded in the consequences of inaction. The view was that leaving such manifest act of aggression unpunished by any international judicial mechanism would be more damaging than the risks associated with creating a Special tribunal³⁷³. In particular, failure to address this crime would signal that the crime of aggression cannot be effectively prosecuted, thereby undermining both the international criminal justice system and the ICC³⁷⁴. Conversely, taking such a step would preserve the integrity and enforceability of the whole international criminal law system.

4.2.1 Early Preparatory Discussions

Preparations for the tribunal began rapidly. The first major discussion took place in June 2022 at the Yale Club in New York, organised by Latvia, Liechtenstein and Ukraine³⁷⁵. The conference remained closed to the public, in which selected diplomats, legal scholars and

³⁶⁹ International Criminal Court, *Rome Statute of the International Criminal Court* (17 July 1998, as amended) <https://ihl-databases.icrc.org/ar/ihl-treaties/icc-statute-1998> accessed 2 April 2026.

³⁷⁰ Wenaweser and Alavi (n 365).

³⁷¹ Karen Freiled, 'ICC Prosecutor Pushes Back on Special Tribunal for War Crimes in Ukraine' (Courthouse News Service, 2024) <https://www.courthousenews.com/icc-prosecutor-pushes-back-on-special-tribunal-for-war-crimes-in-ukraine/> accessed 1 May 2026.

³⁷² Wenaweser and Alavi (n 365).

³⁷³ Ibid.

³⁷⁴ Ibid.

³⁷⁵ United Nations Security Council, 'Letter dated 12 August 2022 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council' (S/2022/..., 12 August 2022) <https://www.justsecurity.org/wp-content/uploads/2022/09/UNSC-Letter-12-August-2022.pdf> accessed 1 May 2026.

human rights experts gathered to address the possibility of creating a Special tribunal for the crime of aggression³⁷⁶.

The discussion was framed by the recognition that Russian's aggression should be prosecuted, and therefore efforts were made to identify legal mechanisms to achieve this³⁷⁷. Participants agreed that it was legally possible to establish a tribunal without requiring the approval of the UNSC. This could be achieved through a UNGA.³⁷⁸ In support of this view, previous special tribunals were referenced, such as the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia, demonstrating that international criminal tribunals have been created through international cooperation³⁷⁹.

Essentially, in 2022, the idea of establishing a Special International tribunal was discussed among Ukraine's neighboring states and supporters of a strong international legal order³⁸⁰. These states supported the establishment of a tribunal, recognising that Ukraine should take a leading role in the process. Given the difficulties involved, more innovative approaches were proposed, including establishment through the UNGA or through a multilateral treaty³⁸¹.

It was also clarified that these initiatives would not be limited to the creation of the Special Tribunal for the crime of aggression against Ukraine³⁸² but would also aim to harmonise the Rome Statute's jurisdiction over all four core crimes in future cases of aggression³⁸³. The purpose of the tribunal was never to undermine the ICC, but rather to complement it as a transitional gap-filling mechanism designed to preserve the integrity of the prohibition of the aggression under the Rome Statute framework³⁸⁴. These efforts were aligned with future discussions on amendments to the Rome Statute and the mandatory review of the Kampala Amendments scheduled for 2025³⁸⁵.

³⁷⁶ Ibid 7-8.

³⁷⁷ Ibid 3 -5.

³⁷⁸ Ibid 9-10.

³⁷⁹ Ibid 3.

³⁸⁰ Wenaweser and Alavi (n 365).

³⁸¹ Ibid; UNSC, 'Letter dated 12 August 2022' (n 375) 8-10.

³⁸² Ibid 5.

³⁸³ Ibid 9.

³⁸⁴ Ibid.

³⁸⁵ Coalition for the International Criminal Court, 'Bridging the Jurisdictional Gap: The APS's Long-Awaited Review of the Crime of Aggression' (14 November 2025) <https://www.coalitionfortheicc.org/news/summary-article-special-session-crime-of-aggression> accessed 1 June 2026.

4.2.2 Core group

The discussions of the Special tribunal marked a shift from a purely political dynamic to a structured institutional process. Ukraine succeeded in transforming international support into a more specific cooperation mechanism, known as “Core Group”³⁸⁶. This group consisted of states that agreed on the necessity of establishing the Special tribunal³⁸⁷.

Within this framework, legal representatives met repeatedly to determine the legal conditions under which the tribunal could be created. At the same time, the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA)³⁸⁸ was established through the initiative of the US and several EU member states³⁸⁹. The ICPA does not function as a judicial body; it collects evidence from the field in Ukraine and transmits it to the future tribunal to support its work³⁹⁰. However, the ICPA has been regularly questioned regarding its neutrality, particularly as concerns were raised about its use of the term “aggression”, which was not always aligned with the definition provided in the Rome Statute³⁹¹.

The Core group was created to address specific issues and accelerate the process of establishing the tribunal. Six central legal and political questions were identified: the appropriate institutional venue for the tribunal, the treatment of personal immunities, the applicable definition of the crime of aggression, the permissibility of trials in absentia, the procedural mechanisms for initiating investigation and the tribunal’s legal scope and safeguards³⁹².

A later development emerged in 2024, when it was proposed that the Special tribunal should be established under the auspices of the Council of Europe (CoE). Initially, this approach was met with skepticism regarding its international character and its ability to address personal

³⁸⁶Ministry of Foreign Affairs of Ukraine, ‘The Core Group on the Establishment of the Special Tribunal Defined the Legal Framework for the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine’ (5 February 2022) <https://mfa.gov.ua/en/news/core-group-establishment-special-tribunal-defined-legal-framework-establishment-special-tribunal-crime-aggression-against-ukraine> accessed 29 April 2026; Council of Europe, ‘Frequently Asked Questions-Special Tribunal for the Crime of Aggression against Ukraine’ <https://www.coe.int/en/web/special-tribunal-ukraine/frequently-asked-questions> accessed 23 May 2026.

³⁸⁷ Wenaweser and Alavi (n 365).

³⁸⁸ Eurojust, ‘International Centre for the Prosecution of the Crime of Aggression against Ukraine’ <https://www.eurojust.europa.eu/international-centre-for-the-prosecution-of-the-crime-of-aggression-against-ukraine> accessed 13 May 2026.

³⁸⁹ Wenaweser and Alavi (n 365).

³⁹⁰ Eurojust, ‘ICPA’ (n 388).

³⁹¹ Wenaweser and Alavi (n 365).

³⁹² Ibid.

immunities. Additional doubts concerned the likelihood of broader international support beyond the CoE member state, particularly given the limited response to the establishment of the Register of Damages caused by the Russian aggression against Ukraine, initiated by the UNGA and embedded within the CoE framework³⁹³.

These concerns were partially addressed during a seminar held in Strasbourg in 2024, organised by Ukraine, Lichtenstein and CoE. The proposed model was considered a politically effective solution, as it relied on existing international organisation whose traditional mandate is the protection of human rights and the rule of law³⁹⁴. The proposal gained acceptance as it was seen to combine political feasibility with legal legitimacy.

Considering the above, it can be understood how broad political support for accountability, gradually transformed into a more concrete institutional framework through the establishment of the Core Group and the development of the legal and political foundations of the Special tribunal.

4.2.3 Immunities, in Absentia Trials and Prosecutorial Powers

However, the issue of immunities remained unresolved. The main concern was whether a tribunal not established under Chapter VII of the UN Charter³⁹⁵ could override personal immunities of senior Russian officials, particularly the “troika”³⁹⁶. Although precedents such as Nuremberg, Special Court for Sierra Leone and ICC jurisprudence including the ICJ Arrest Warrant case suggested that international tribunals may limit immunities, several G7 states remained opposed within the Core group discussions³⁹⁷.

As aggression is a leadership crime, particularly in the context of Ukraine, responsibility is attributed directly to Russia’s highest political leadership. This created tension, since the tribunal’s primary objective was to ensure accountability at the leadership level; without this, its fundamental purpose would be undermined³⁹⁸.

³⁹³ Ibid.

³⁹⁴ Ibid.

³⁹⁵ UN Charter (Articles 39-51) (n 3).

³⁹⁶ Wenaweser and Alavi (n 365).

³⁹⁷ Ibid.

³⁹⁸ Ibid.

After extended negotiations, the Core Group reached a compromise. The future Prosecutor of the Special Tribunal would be able to issue indictments against members of the troika for the crime of aggression, but judicial proceedings would be suspended while they remain in office³⁹⁹. In other words, accountability could be formally established, but trials would only commence these individuals leave office. These limitations do not apply to other senior state officials, who may be prosecuted without restriction⁴⁰⁰.

This compromise on personal immunities reflects both the creativity and political pragmatism necessary to reach consensus. Although it does not fully satisfy the demands of justice, as it grants temporary procedural immunity to high-ranking political figures, it represents the broadest possible consensus. It also demonstrates that G7 states were not prepared to accept a solution that could significantly restrict or challenge the principle of immunities, fearing potential future implications⁴⁰¹.

In this context, international justice partly remains symbolic rather than fully operational, and although aggression is a legal matter, its enforcement continues to be shaped by political considerations.

Continuing on the issue of immunities, another question emerged regarding whether the tribunal would be able to conduct trials in absentia, meaning proceedings without the physical presence of the accused. This issue divided the Core group. Supporters argued that such a mechanism is essential, as it is highly unlikely that senior Russian leaders would be surrendered or appear voluntarily. Without such a mechanism, there was a risk that proceedings would never take place, leaving the crime unpunished⁴⁰².

This argument contributed to a more flexible approach, as enabling in absentia trials was seen as a way to close the accountability gap. However, it was balanced by procedural safeguards, including mandatory legal representation, the right to retrial upon surrender, and enhanced notification requirements aimed at ensuring fairness⁴⁰³.

³⁹⁹ CoE, 'Frequently Asked Questions – Special Tribunal' (n 386).

⁴⁰⁰ Ibid; Wenaweser and Alavi (n 365).

⁴⁰¹ Ibid; Wenaweser and Alavi (n 365).

⁴⁰² Wenaweser and Alavi (n 365).

⁴⁰³ Ward Ferdinanduse, 'In Absentia Trials and the Special Tribunal for the Crime of Aggression Against Ukraine' (15 May 2026) *Just Security* <https://www.justsecurity.org/138888/absentia-trials-special-tribunal-ukraine/> accessed 2 May 2026.

Another issue concerned the independence of the Prosecutor, specifically whether they would act *proprio motu* or depended entirely on formal referrals from Ukraine. Initially, a restrictive model proposed, requiring formal transmission of cases by Ukrainian authorities. This was linked to concerns regarding immunities. Eventually, a compromise was reached allowing case referrals and evidence submission by Ukraine's Prosecutor general while also granting the tribunal prosecutor limited *proprio motu* powers under the Statute⁴⁰⁴.

However, Articles 23 and 24 retain a degree of ambiguity regarding the exact procedural threshold of initiating investigations⁴⁰⁵, which may have significant practical implications, as the scope of prosecutorial independence will ultimately depend on interpretation and the broader political context.

These compromises illustrate that the design of the Special tribunal was not based only on legal considerations but also on political pragmatism. Although intended to close the accountability gap regarding the crime of aggression, the negotiations reveal that question of immunity, prosecutorial independence and procedural fairness remain deeply influenced by political realities⁴⁰⁶.

4.2.4 Final Statutory Framework

The Special Tribunal was carefully designed to complement existing international judicial mechanisms and avoid undermining the ICC. Its jurisdiction is strictly limited to the crime of aggression, while its Statute emphasise the importance of preserving the integrity of the broader justice system.

In response to earlier concerns that the tribunal could undermine the ICC's mandate, several safeguards were included in the Statute. More specifically, Article 5 establishes that nothing in the Statute shall be interpreted as modifying or restricting existing international law⁴⁰⁷. This

⁴⁰⁴ Wenaweser and Alavi (n 365).

⁴⁰⁵ Council of Europe, *Statute of the Special Tribunal for the Crime of Aggression against Ukraine* (23 June 2025) [https://search.coe.int/cm#{%22CoEIdentifier%22:\[%220900001680b678ca%22\],%22sort%22:\[%22CoEValidati onDate%20Descending%22\]}](https://search.coe.int/cm#{%22CoEIdentifier%22:[%220900001680b678ca%22],%22sort%22:[%22CoEValidati onDate%20Descending%22]}) accessed 23 March 2026.

⁴⁰⁶ Wenaweser and Alavi (n 365).

⁴⁰⁷ CoE, *Statute of the Special Tribunal* (n 405) art 5.

means that the tribunal does not redefine international criminal law or create new general legal rules.

At the same time, Article 46 clarifies that States Parties to the Rome Statute retain all their obligations towards the ICC⁴⁰⁸. Therefore, the creation of the Special tribunal neither replaces nor reduces obligation under the ICC framework.

It is also important to note that, although the Special tribunal has international participation, it is not considered a fully universal court in the same sense as the ICC. As *sui generis* institution, it does not possess the same level of institutional recognition or constitutional authority⁴⁰⁹. For this reason, decision regarding immunities or the status of senior officials cannot be directly transferred to the ICC⁴¹⁰.

By the spring of 2025, following hundreds rounds of negotiation, the drafting process of the Statute has been completed. During the May session of the Committee of Ministers of the Council of Europe held in Luxembourg, Ukraine submitted the relevant documents for consideration. Subsequently, on 24 June 2025, the Committee of Ministers approved the draft Statute establishing the Special Tribunal for the Crime of Aggression. Following the signature of the founding agreement in Strasbourg on 25 June, the Ukrainian Parliament ratified the treaty on 15 July 2025, paving the way for other member states of the CoE to ratify the Economic Partnership Agreement (EPA)⁴¹¹.

Within the institutional framework of the CoE, an EPA enables a group of member states, together with non-member states willing to participate, to establish a treaty-based mechanism under the auspices of the organisation. Such arrangements provide the mechanism with international legal personality while at the same time allowing participation to remain voluntary and flexible⁴¹².

⁴⁰⁸ CoE, *Statute of the Special Tribunal* (n 405) art 46.

⁴⁰⁹ CoE, 'Frequently Asked Questions – Special Tribunal' (n 386).

⁴¹⁰ Wenaweser and Alavi (n 365).

⁴¹¹ European External Action Service, 'Ukraine and Council of Europe Sign Landmark Agreement for Special Tribunal on Crime of Aggression' (1 July 2025) https://www.eeas.europa.eu/delegations/council-europe/ukraine-and-council-europe-sign-landmark-agreement-special-tribunal-crime-aggression_en accessed 3 March 2026; Council of Europe and Ukraine, *Agreement between the Council of Europe and Ukraine on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine, including the Statute of the Special Tribunal* (25 June 2025) <https://rm.coe.int/agreement-and-statut-english/1680b66127> accessed 3 March 2026.

⁴¹² Wenaweser and Alavi (n 365).

Article 1 establishes the Special tribunal and provides that it shall operate in accordance with the annexed Statute⁴¹³. Ukraine is required to take all appropriate measures to support the functioning of the tribunal. The tribunal is granted international legal personality and the legal capacity necessary to fulfil its mandate. It will be located in a participating state of the EPA and a Management Committee, will be responsible for financing administrative oversight and policy supervision⁴¹⁴.

The agreement will enter into force once three conditions are met: signature by the Secretary General, notification by Ukraine that its internal procedures have been completed and the establishment of the EPA⁴¹⁵.

The Statute limits the Tribunal's jurisdiction to individuals bearing the greatest responsibility for the crime of aggression against Ukraine⁴¹⁶. The definition of aggression is based on the UNGA Resolution 3314 (1974),⁴¹⁷ with further interpretative consideration of relevant resolutions concerning Ukraine⁴¹⁸.

The adopted draft represents a political compromise. It establishes a *sui generis* accountability mechanism dedicated to the crime of aggression and constitutes an official recognition of the aggression against Ukraine. It is anchored within the CoE framework.

A significant limitation remains in relation to personal immunities of sitting members of Russia's leadership troika, who are considered most responsible for the aggression. However, as discussed, the tribunal retains the ability to issue indictments and initiate proceedings once they leave office. It may also prosecute other senior officials not protected by the personal immunity, including those from Belarus and the Democratic People's Republic of Korea.⁴¹⁹

4.3 The complementary role of EU and NATO responses in supporting accountability

⁴¹³ CoE, *Statute of the Special Tribunal* (n 405) art 1.

⁴¹⁴ Ibid art 1, art 51, art 54(b).

⁴¹⁵ Ibid.

⁴¹⁶ Ibid art 23 (4) (5).

⁴¹⁷ UNGA Res 3314 (XXIX) (14 December 1974) UN Doc A/RES/3314 (XXIX) (n 228).

⁴¹⁸ CoE, *Statute of the Special Tribunal* (n 405) art 2 (3).

⁴¹⁹ Wenaweser and Alavi (n 365).

As already discussed, international organisations had condemned Russia's actions even before the outbreak of the full-scale invasion in 2022 war, dating back to the illegal annexation of Crimea in 2014. The sanction packages imposed by the EU and NATO response to the aggression that have already been analysed. However, an important question remains regarding not the effectiveness of these measures, but also whether they contribute to promoting accountability.

International accountability cannot be achieved only through judicial mechanisms. Although international courts establish individual criminal responsibility, they lack independent enforcement capacities⁴²⁰. In this context, the EU and NATO do not act as a judicial bodies but rather operate as complementary mechanisms which reinforce accountability by increasing the political, economic and strategic costs associated with violations of international law.

Furthermore, the paralysis of the UNSC caused by Russia's veto prevented the adoption of collective enforcement measures. As a result, regional organisations, particularly EU and NATO, supported Ukraine and defended the rules-based international order through political, economic and security mechanisms.

4.3.1 EU sanctions as mechanisms of political and legal pressure

Sanctions are restrictive measures which function as complementary tools in addressing grave violations of international law. Since they are adopted by political actors rather than judicial institutions, their purpose is not to punish perpetrators directly, but to influence behavior and signal that particular actions are considered unacceptable by the international community⁴²¹. In this sense, sanctions operate as non-judicial instruments that complement, rather than replace, formal accountability mechanisms. They contribute by increasing the political, economic and diplomatic costs associated with violations of international law.

The effectiveness of the sanctions and their contribution to accountability can be understood through the triad of deterrence: Coerce, constrain and signaling.

⁴²⁰ Yuri Parkhomenko, 'Courts in Wartime: A Level Playing Field for Peace' *Just Security* (18 February 2026) <https://www.justsecurity.org/131136/courts-wartime-level-playing-field-peace/> accessed 15 June 2026.

⁴²¹ Council of the European Union, 'Why Sanctions?' <https://www.consilium.europa.eu/en/policies/why-sanctions/> accessed 23 March 2026.

Coerce, is primarily associated with economic sanctions and refers to restrictions that aim to change behavior by making certain choices unsustainable or unacceptable. Essentially, coercion operates through a cost-benefit logic, in which the cost of the offending behavior ultimately outweighs any potential benefit, rendering it unsustainable⁴²².

Constrain acts as complement to coercion, as the enforcing power recognises that behavioral change cannot be achieved solely through economic pressure. Instead, change may be facilitated by denying access to critical means and capabilities. Constraint-based sanctions may include, among other measures: arms embargoes, restriction on access to critical technologies, and limitations on materials needed for their development, including dual-use goods, surveillance equipment and broader sectoral measures designed to constrain entire economies⁴²³.

Signaling functions as a normative and political tool. Through sanctions, states and international organisations express collective disapproval, stigmatise unlawful behavior and reinforce internationally accepted norms. This dimension is particularly relevant for accountability, as it contributes to the attribution of responsibility and the public condemnation of violations⁴²⁴.

The European approach to sanctions follows this distinctive logic. Traditionally, economic sanctions are understood as instruments intended to inflict economic costs on a target state in order to alter its behavior. Consequently, sanctions are often perceived as mechanism of economic pressure, assessed through indicators such as restrictions on imports, exports and financial transactions⁴²⁵.

⁴²² European Council on Foreign Relations, 'Signal, Constrain and Coerce: A More Strategic Use of Sanctions' (Essay, 23 June 2017) https://ecfr.eu/article/essay_signal_constraint_and_coerce_a_more_strategic_use_of_sanctions/ accessed 18 June 2026); Andrew S Corbett and Annamarie Binednagel-Sehovic, 'Acculturation of the Core Concepts of European Security' in *NATO Science and Technology Organization, STO-MP-SAS-141: Deterrence and Assurance Within an Alliance Framework* (NATO STO, 2019) MP-SAS-141-12 <https://publications.sto.nato.int/publications/STO%20Meeting%20Proceedings/STO-MP-SAS-141/MP-SAS-141-10.pdf> accessed 18 June 2026.

⁴²³ ECFR, (n 422); Corbett and Binednagel-Sehovic, 'Acculturation of Core Concepts' (n 422).

⁴²⁴ ECFR (n 422); Corbett and Binednagel-Sehovic, 'Acculturation of Core Concepts' (n 422).

⁴²⁵ Ministry of Foreign Affairs of Ukraine, 'Ukraine's Achievements in Prosecutorial Independence: Details of the OECD Report' (24 November 2025).

However, within the European approach, sanctions fulfil not only an economic but also a symbolic and normative function. Their political purpose is to demonstrate solidarity, support international norms and strengthen the European Union's authority as international actor⁴²⁶. Therefore, the EU does not rely exclusively on sanctions as instruments of coercion but often combines them with diplomatic dialogue and conditions for their eventual lifting, reflecting a broader concept of smart sanctions. This is particularly visible in coordinated sanctions regimes adopted together with actors such as the U.N and the U.S, where the political dimension of sanctions is reinforced through cooperation and the collective shaping of international legitimacy⁴²⁷.

The sanctions imposed against Russia constitute one of the most extensive and long-term sanctions regimes ever adopted by the EU. Unlike previous sanctions frameworks, the measures introduced after 2022 have progressively expanded beyond traditional trade and financial restrictions, targeting sectors such as data processing, satellite technology, cloud computing and cryptocurrency transactions (constrain)⁴²⁸. These developments emerged partly in response to attempts by third countries to facilitate the circumvention of sanctions and maintain economic cooperation with Russia⁴²⁹.

Although sanctions, do not establish criminal responsibility in the same manner as judicial institutions, they contribute to accountability by reducing tolerance for violation of international law and by increasing the political, economic and diplomatic costs associated with unlawful conduct. In this respect, sanctions complement international criminal justice rather than replace it. Their function extends beyond deterrence, as they reinforce international norms, stigmatise unlawful behavior and demonstrate that serious violations of international law are met with collective responses by the international community.

Sanctions therefore perform multiple functions within the architecture of international security. On the one hand, they strengthen international responsibility and reduce tolerance for violations of sovereignty and international law. On the other hand, they contribute to the formation of a common European position in situations of conflict. More broadly sanctions are conceived as long-term instruments intended to influence the behavior of targeted actors, protect

⁴²⁶ Ibid 87.

⁴²⁷ Ibid.

⁴²⁸ MFA Ukraine, 'OECD Report on Prosecutorial Independence' (n 425), 87.

⁴²⁹ Ibid.

international legality, uphold human rights and prevent aggression and destabilization⁴³⁰. This also corresponds to the European Union's strategy of deterrence, while relies on long-term, coordinated and flexible forms of influence aimed at affective not only specific practices but also the broader strategic orientation on the targeted state or entity⁴³¹. Ultimately, EU sanctions do not replace judicial mechanisms, but they support and reinforce broader international efforts aimed at ensuring accountability by increasing political, economic and diplomatic pressure on Russia.

4.3.2 NATO responses as complementary security mechanisms

Although NATO is primarily a military alliance rather than a political institution, as previously demonstrated, it has contributed to the broader sanctions policy and as adopted measures which, as underlined in the Strategic Concept of 2022⁴³². Through collective defence, military assistance and support for the rules-based international order, the Alliance complements the political and economic measures adopted by the EU.

As already established, after the Cold War, the Alliance shifted its role from solely military alliance responsible for protecting member states from armed conflicts to an organisation committed to preserving the rules-based international order, founded upon democracy, the rule of law and international cooperation.

The principle of collective defence, as enshrined in the Washington Treaty⁴³³, is clearly reflected in the measures adopted by the Alliance following Russia's aggression against Ukraine. Immediately after the invasion, NATO convened an emergency meeting and activated its defence plans by strengthening its eastern flank. These measures represented the most substantial reinforcement of collective defence since the Cold War⁴³⁴.

⁴³⁰ Ibid 91.

⁴³¹ Ibid.

⁴³² NATO 'NATO 2022 Strategic Concept' (n 124).

⁴³³ North Atlantic Treaty Organization (NATO), 'Collective Defence and Article 5' <https://www.nato.int/en/what-we-do/introduction-to-nato/collective-defence-and-article-5> accessed 21 March 2026.

⁴³⁴ Andrej Podraza, 'The transformation of NATO's Roles in Shaping Global Order and Security Governance' (2025) 31(2) *Journal for Perspectives of Economic Political and Social Integration*, 274 https://www.researchgate.net/publication/399273732_The_Transformation_of_NATO's_Roles_in_Shaping_Global_Order_and_Security_Governance accessed 23 May 2026.

This understanding is also reflected in NATO's 2022 Strategic Concept⁴³⁵. According to the new Strategic Concept, international order possesses both regional and global dimensions⁴³⁶. Consequently, NATO's objectives extend beyond the Euro-Atlantic area and reflect the ambitions of its member states to promote security and democratic values on a broader scale. Both dimensions are embedded within the framework of the complex rules-based order supported by the Alliance.

Against this background, NATO's responses to Russia's aggression are not aimed exclusively at protecting the territorial integrity of its members states, but also at preserving an international order founded upon the rule of law and the principle of accountability in cases involving serious violations of international law⁴³⁷. Russia's invasion of Ukraine has therefore been perceived not merely as a bilateral conflict, but as a challenge to the fundamental principles underpinning the international order.

Consequently, the measures adopted by the Allies, including the reinforcement of the eastern flank, long-term military and financial assistance to Ukraine and support for accountability initiatives, can be understood as instruments of collective defence and cooperative security through which the Alliance seeks to preserve the rules-based international order.

In this regard, NATO's response extends beyond purely military consideration and increasingly reflects a broader commitment to safeguarding the normative foundations of international society. Therefore, support for sanctions and the adoption of extensive military measures are consistent with NATO's strategic role as a guardian of the rules-based international order.

Ultimately, NATO does not possess a judicial character and therefore cannot directly prosecute international crimes. Nevertheless, the measures adopted by the Alliance demonstrate that grave violations of international law are condemned not only through judicial mechanisms, but also through security and governance structures which contribute to strengthening the broader framework of international accountability. In this sense, NATO complements international criminal justice and within the limits of its mandate, promotes the principle of accountability.

⁴³⁵ NATO 'NATO 2022 Strategic Concept' (n 124).

⁴³⁶ Ibid.

⁴³⁷ Ibid.

Therefore, accountability for the crime of aggression cannot be pursued exclusively through judicial institutions. Political, economic and security measures may also contribute to strengthening the broader framework of accountability. Nevertheless, the effectiveness and legitimacy of these mechanisms remain contested, raising broader questions about selectivity and the uneven application of international law. These challenges are examined in the following section.

4.4 Selective Enforcement and Structural Limitations of International Criminal Justice

The International Criminal Court was established in order to investigate, prosecute and punish grave violations of international law namely genocide, crime against humanity, crime of aggression and war crimes⁴³⁸. Despite its mandate, it has been criticised for various reasons throughout the years.

Initially, the Court was criticised for being a Western-oriented institution that disproportionately focused on crimes committed in African states and prosecuted African perpetrators. Even when legal justifications existed, this pattern created concerns regarding the Court's legitimacy⁴³⁹. In more recent years, however, criticism has shifted. The Court has increasingly been accused of uneven intervention and selective engagement, with some commentators arguing that it pays greater attention to European conflicts and acts in favour of European victims, leading to accusation of Eurocentrism⁴⁴⁰.

These changing criticisms demonstrates the persistent concerns surrounding the enforcement of international law and the exercise of the Court's jurisdiction. Although the geographical focus of criticism has changed over time, the underlying issue remains largely the same: the selective enforcement of international criminal law and the influence of political considerations on the operation of the Court. Accordingly, this chapter examines selective enforcement, the

⁴³⁸ Office of the United Nations High Commissioner for Human Rights, 'Rome Statute of the International Criminal Court' <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court> accessed 3 May 2026.

⁴³⁹ Amnesty International, 'A chance for Africa to counter the pitfalls of international criminal justice?' (22 April 2024) <https://www.amnesty.org/en/latest/news/2024/04/a-chance-for-africa-to-counter-the-pitfalls-of-international-criminal-justice/> accessed 3 May 2026.

⁴⁴⁰ Patryk I Labuda, 'Beyond Rhetoric: Interrogating the Eurocentric Critique of International Criminal Law's Selectivity in the Wake of the 2022 Ukraine Invasion' (2023) 36(4) *Leiden Journal of International Law* 1905, 1906 <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/BD9D81E2CFA79A7930769DD0F18BBA63/S0922156523000237a.pdf/beyond-rhetoric-interrogating-the-eurocentric-critique-of-international-criminal-laws-selectivity-in-the-wake-of-the-2022-ukraine-invasion.pdf> accessed 13 May 2026.

political factors influencing international criminal justice and several proposals that have been advanced in order to strengthen the effectiveness and legitimacy of international criminal law.

4.4.1 Selective Enforcement and Accusations of Double Standards

Double standards in international law refer to the inconsistent application and enforcement of rules, norms and principles by states or international bodies, often influenced by political interests, power dynamics or strategic alliances⁴⁴¹. Numerous scholars have argued that international law operates through double standards, particularly in the areas of the use of force and human rights. Selective justice significantly influences the way in which the legitimacy and authority of the Court are perceived. This tendency becomes even more visible during periods of armed conflict and increased international scrutiny, when the Court's mandate is placed under the microscope⁴⁴². Although the Rome Statute provides that legal standards should be applied universally to prosecute the most serious crimes, practice has often demonstrated otherwise. Patterns of prosecution have frequently been influenced by geopolitical considerations and political interests⁴⁴³.

These standards are further reinforced by the impunity enjoyed by powerful states. This became evident following the outbreak of the Russian Ukrainian war, when the response of the international community was both immediate and extensive. The Ukrainian case illustrates the Court's ability to facilitate rapid investigations when there is strong international political support and when the interests of powerful actors align in favor of accountability⁴⁴⁴. At the same time, the calls for the establishment of a Special Tribunal for Ukraine revived arguments concerning the double standards. Particularly when compared with earlier violations of the prohibition of the use of force, such as the US-led invasion of Iraq, which did not generate comparable demands for prosecutions for aggression⁴⁴⁵. Consequently, the rapid mobilization

⁴⁴¹ Opinion Juris, 'Double Standards in International Law: Critical reflections for an Academic Lens for Teaching and Research; (21 July 2025) <https://opiniojuris.org/2025/07/21/double-standards-in-international-law-critical-reflections-for-an-academic-lens-for-teaching-and-research/> accessed 1 June 2026.

⁴⁴² Hasibur Rahaman, Ahamd Ali, Faisal Ahmed, Sadia Afrin and Sanjida Afroze, 'The Selective Application of Justice: Comparing ICC Investigations in Ukraine and Palestine' (2026) *Open Journal of Political Science* <https://www.scirp.org/journal/paperinformation?paperid=148297> accessed 25 April 2026.

⁴⁴³ Ibid.

⁴⁴⁴ Richard Falk, 'Geopolitics and International State Crime: An Accountability Black Hole' *openDemocracy* (15 December 2014) <https://www.opendemocracy.net/en/geopolitics-and-international-state-crime-accountability-black-hole/> accessed 23 May 2026.

⁴⁴⁵ Kai Ambos, 'Ukraine and the Double Standards of the West' (2022) 20(4) *Journal of International Criminal Justice* 875-892 <https://academic.oup.com/ijci/article/20/4/875/6843287?guestAccessKey=> accessed 15 May 2026.

of the international community with regard to crimes committed in Ukraine has led many scholars to argue that international criminal justice continues to display a Eurocentric bias.

The reaction, however, has not been the same in other situations, either historically or in contemporary conflicts. Palestine joined the Rome Statute in 2015⁴⁴⁶, and even the initiation of investigative procedures, various factors contributed to delays and periods of inactivity. Moreover, limited resources and insufficient funding for non-European situations have affected the Court's ability to provide impartial justice in those contexts⁴⁴⁷. Such inconsistencies have reinforced perceptions that international criminal justice is applied unevenly and have also influenced debates concerning the legitimacy of the proposed Special tribunal⁴⁴⁸.

On the other hand, many scholars argue that the emergence of an ad hoc solution for Ukraine is itself the result of choices made by Western states during the creation of the ICC. More specifically, countries such as the U.S, the U.K and France played a decisive role in shaping the jurisdictional regime of the crime of aggression during both the Rome negotiations and the Kampala Review Conference⁴⁴⁹. As a result, the Prosecutor of the ICC is currently unable to exercise jurisdiction over the crime of aggression in the same way as for the other three core crimes. At the same time, as discussed previously, several states from the Global South remain reluctant to support the prosecution of Vladimir Putin, arguing that international criminal justice is not applied equally to all states⁴⁵⁰.

Moreover, the assumption that Western countries have uniformly supported the prosecution of the crime of aggression is not entirely accurate. As discussed in the context of the negotiations surrounding the establishment of the Special tribunal, several G7 states opposed to lift personal immunities, fearing that similar precedents could eventually affect them⁴⁵¹. Consequently, the image of a unified Western approach does not fully reflect reality. Furthermore, an internal contradiction within the academic debate has emerged: many states and commentators that

⁴⁴⁶ United Nations News, 'International Criminal Court welcomes Palestine as State Party to the Rome Statute' (1 April 2015) <https://news.un.org/en/story/2015/04/494922> accessed 3 May 2026.

⁴⁴⁷ Rahaman et al (n 442).

⁴⁴⁸ Ibid.

⁴⁴⁹ Labuda (n 454) 1107.

⁴⁵⁰ Ibid 1098.

⁴⁵¹ Wenaweser and Alavi (n 365).

previously criticised the ICC for selectivity and political influence now argue that the only legitimate response to the crime of aggression should come through the ICC itself⁴⁵².

Therefore, although accusation of Western preferences, double standards and selective justice are understandable, the debate surrounding accountability for Ukraine demonstrates that the multi-layered nature of international criminal justice is overlooked. More specifically, the invasion of Ukraine led to a change in perception of the Court, from being accused of being biased against anti-African to being seen as Eurocentrism. However, the oversimplification of this debate risks indirectly legitimizing the selective inaction of certain non-Western states, which view the war in Ukraine as a European issue that does not directly concern them.

Ultimately, the fragmented international reaction to Russian crimes cannot be regarded as an exception to the international legal order but is rather an inevitable result of its state-centric nature. The underrepresented mobilization in favor of accountability for Ukraine is connected to the interstate nature of the conflict and the willingness of the Ukrainian government to pursue legal action against Russia. As previously demonstrated, states may strongly support accountability in the case of Ukraine while adopting entirely different position, when their own political interests or internal conflicts are involved. Consequently, selectivity is not an accidental feature of international criminal justice, but rather an element embedded within the structure of the system itself.

4.4.2 Political Influence and Structural Obstacles to Accountability

One of the major factors contributing to the accountability gap is the dependence of the ICC from the UNSC. Although this issue has already been extensively discussed in the previous sections, less attention has been given to the broader political geopolitical considerations that ultimately affect the Court's jurisdiction.

Many authors have argued that the function of the Court is not only based solely on legal considerations but is also significantly influenced by political and geopolitical factors. Relations between states, the balance of power, the interests of major powers and broader political objectives shape and limit the Court's field of action, often resulting in unequal

⁴⁵² Labuda (n 454).

treatment of perpetrators⁴⁵³. More specifically, several studies suggest that individuals connected to powerful states or benefiting from their political protection are less likely to become the subject of investigations. Rather ICC investigations appear to focus more frequently on politically vulnerable actors. In this sense, the international political and geopolitical environment affects not only the funding and priorities of international criminal proceedings, but also the possibilities of delivering justice⁴⁵⁴. Consequently, the patterns observed in the application of international criminal law challenge the perception that it constitutes a fully autonomous and neutral legal field, highlighting the interdependence between law and international political power.

In the case of Ukraine, despite the immediate reaction of the international community, the crime of aggression remains unprosecuted, while the process leading to the establishment of a Special Tribunal proved lengthy and politically complex. The Ukrainian case illustrates that international criminal justice tends to operate more effectively when the interests of the affected state coincide with those of influential states and international alliances. In this regard, political support from states and alliances remains essential for the effective functioning of international criminal justice mechanisms⁴⁵⁵.

The UNSC, is considered one of the principle political bodies who hold the responsibility to maintain international peace and security. As discussed previously, its internal structure and the powers granted to its members significantly affect the way it functions. Consequently, it has been heavily criticised for the fact that, despite the manifest violation of international law committed by Russia, it has been unable to initiate any meaningful response regarding the crime of aggression, thereby continuing a pattern of paralysis that dates back to 2014⁴⁵⁶.

The granting of veto powers to the permanent members after the World War II, was based on the assumption that these states would be able to safeguard international peace effectively, and that their privileged position would align the realities of power with the enforcement

⁴⁵³ Richard Falk, 'Geopolitics and International State Crime: An Accountability Black Hole' *Max Planck Institute for Comparative Public Law and International Law* <https://www.mpil.de/en/pub/research/areas/public-international-law/geopolitics-and-international.cfm> accessed 29 May 2026.

⁴⁵⁴ Rahaman et al (n 442).

⁴⁵⁵ Ibid.

⁴⁵⁶ Agata Kleczkowska, 'Judging its own Case – the Abuse of the Veto Power by Russia' (2023) 14 *Czech Yearbook of Public & Private International Law* 941 <https://e-bp.inp.pan.pl/server/api/core/bitstreams/7c034be5-419b-4376-98a6-57e373eab483/content> accessed 29 April 2026.

capabilities of the international system itself⁴⁵⁷. However, throughout the years, as the permanent members have, on different occasions, violated international law and used their veto power to block measures that could potentially affect their own interests. According to Article 27(3) of the UN Charter⁴⁵⁸, the US has exercised its veto 82 times, U.K 29 times, France 16 times, China 16 times and Russia including the period it was member as USSR 120 times⁴⁵⁹. This raises broader questions regarding whether such a major political body that its mandate is directly connected with the ICC, favors powerful states, allowing them to shield themselves from accountability while weaker states are more likely to face legal consequences⁴⁶⁰.

Since 2014, the international community has witnessed a paradox in which one of the institutions primarily responsible for maintaining international peace and security has repeatedly remained paralysed while one of its permanent members openly violated fundamental principles of international law⁴⁶¹. Although several states strongly criticised this situation, as illustrated by the statement of the United States representative that “Russia can veto draft resolution S/2022/155, but it cannot veto our voices. It cannot veto the truth. It cannot veto our principles. It cannot veto the Ukrainian people. It cannot veto the Charter of the United Nations. And it will not veto accountability”⁴⁶², the accountability gap has nevertheless persisted.

Debates concerning the reform of the UNSC have existed for years. The first significant initiative emerged in 1993 with the adoption of Resolution 48/26, through which the UNGA⁴⁶³ decided ‘to establish an Open-ended Working Group to consider all aspects of the question of increase in the membership of the Security Council’⁴⁶⁴. Subsequently, in 1997, the Chairman of the Working Group submitted a draft proposal to the UNGA ‘in which he proposed increasing the SC from fifteen to twenty-four by adding five permanent and four non-

⁴⁵⁷ Ibid.

⁴⁵⁸ *UN Repertory: Article 27 (3)* (n 338).

⁴⁵⁹ Security Council Report, ‘The Veto’ (*UN Security Council Working Methods*) <https://www.securitycouncilreport.org/un-security-council-working-methods/the-veto.php> accessed 2 May 2026.

⁴⁶⁰ Ibid.

⁴⁶¹ Kleczkowska (n 456) .

⁴⁶² United Nation, ‘UN/Ukraine Resolution Veto’ (25 February 2022) *UN Audiovisual Library* <https://media.un.org/avlibrary/en/asset/d271/d2713489> accessed 23 May 2026.

⁴⁶³ Nadia Sarwar, ‘Expansion of the United Nations Security Council’ (2013) 33 *Strategic Studies* 95 https://issi.org.pk/wp-content/uploads/2014/06/1328593104_35074620.pdf accessed 2 May 2026.

⁴⁶⁴ Kleczkowska (n 456).

permanent members. (...) the new permanent members would not have the right to veto.’ Nevertheless, due to disagreements among member states, the proposal was never brought to a vote⁴⁶⁵. Since 2009, discussions about UN reform have continued within the framework of inter-governmental negotiations, although no substantial progress has been achieved and prospects for consensus remain limited⁴⁶⁶.

At the same time different proposals have been put forward by states in order to reform UNSC. One of these is the S5 initiative, which was supposed to include the international commission on Intervention and State Sovereignty; France and Mexico; The Elders; as well as the Accountability, Coherence and Transparency Group⁴⁶⁷. It proposed that permanent members refrain from using a veto to block Council actions in cases where the UNSC is acting to prevent or end international crimes or other mass atrocities or to authorise military intervention for human protection purposes for which there is majority support. This proposal did not require a change of the entire institutional structure, but rather the adoption of a code of conduct. Still this proposal was never put a vote, leading to the conclusion that no reform has taken place or is likely to occur in the near future, leaving Russia effectively beyond accountability within the system⁴⁶⁸.

Additionally, although in cases of grave violations of international law the suspension or expulsion of a member state from the UN is the most severe measure of response, the procedure and legal framework make it extremely difficult to implement. Based on Article 5⁴⁶⁹ and 6⁴⁷⁰ of the UN Charter, the UNGA can decide to suspend or expel a state only upon the prior recommendation of the UNSC. Therefore, the procedure requires the approval of the UNSC. However, in the case of Russia, which is a permanent member, this approval is impossible, since the affected state is part of the decision-making body and can exercise its veto right. As a result, there is a vicious circle in which the same state that is under scrutiny for grave violations of international law has the institutional ability to block any action that could affect

⁴⁶⁵ Sarwar (n 463).

⁴⁶⁶ Kleczkowska (n 456).

⁴⁶⁷ Ibid.

⁴⁶⁸ Ibid.

⁴⁶⁹ *UN Repertory art 5* (n 338).

⁴⁷⁰ *UN Repertory art 6* (n 338).

its position or enable accountability⁴⁷¹. This illustrates the structural imbalance of the UN system.

There is, however, a theoretical approach under which the Russian representative could be challenged, and thus Russia would not be able to block the UNSC decisions. Based on Rule 17 of the Provisional Rules of Procedure of the Security Council, a member state of the Council, may challenge the credentials of a representative⁴⁷². That representative continues to participate provisionally until the Council decides on the issue. This rule does not distinguish between permanent and non-permanent members; therefore, it could also apply to a permanent member such as Russia. In practice, when an objection regarding credentials is raised, the Council must take a decision, and the representative continues to perform their duties until their credentials are rejected⁴⁷³.

In the case of Russia, this could be theoretically triggered if a member of the UNSC challenged the credentials, of the Russian representative. Since credentials are considered a procedural matter, Russia would not be able to exercise its veto over such a vote. If the Council were to decide that the credentials of the Russian representative were invalid, Russia would temporarily lose its representation in the UNSC. During this short period (at least 24 hours, unless the Russian government immediately appointed a new representative), the remaining members could adopt decisions such as condemning Russia's action in Ukraine or imposing sanctions without the possibility of a Russian veto⁴⁷⁴. In theory, Ukraine attempts to trigger Rule 17⁴⁷⁵ by challenging the credentials of Russian representative, which would require a Council vote on a procedural matter. However, in practice, this mechanism is highly difficult to implement, particularly given questions of legitimacy and precedent regarding the status of Russia following the dissolution of the USSR and the continuity of its UN seat. This also raises the broader question of why Ukraine would be entitled to claim the USSR's seat, given that Ukraine was an original UN member independent from the Soviet Union⁴⁷⁶.

⁴⁷¹ Kleczkowska (n 456).

⁴⁷² United Nations Security Council, *Provisional Rules of Procedure* (S/96/Rev.7, adopted 1946, last revised 1982) <https://main.un.org/securitycouncil/en/content/provisional-rules-procedure-0> accessed 2 May 2026.

⁴⁷³ Kleczkowska (n 456).

⁴⁷⁴ Thomas D Grant, 'Removing Russia from the Security Council: Part One' *Opinio Juris* (18 October 2022) <http://opiniojuris.org/2022/10/18/removing-russia-from-the-security-council-part-one/> accessed 13 April 2026.

⁴⁷⁵ UNSC, *Provisional Rules of Procedure* (n 472).

⁴⁷⁶ Kleczkowska (n 456).

Given that neither the UN Charter, nor the UNSC framework provides effective solutions to limit the veto power of Russia, it is argued that alternative mechanisms must be sought to address matters of international peace and security, practical through the General Assembly. Even though the General Assembly has limited powers in this field, the “Uniting for peace” resolution has shown that member states consider it the most viable forum for addressing international peace and security issues when the UNSC is unable to act to the veto power⁴⁷⁷.

4.4.3 Beyond Selectivity: Structural Challenges and the Future of Accountability

Therefore, it is evident, that the accountability gap and the uneven enforcement of international law stem from the structural of the way that the international criminal foundations were build. Despite the fact that the ICC is considered capable of piercing state immunity and attributing responsibility even to state leaders for crimes committed within states in practice its effectiveness has been limited. Failed attempts to prosecute leaders in Kenya⁴⁷⁸, as well as the case of Omar al-Bashir⁴⁷⁹, who travelled without being arrested, demonstrate that the ICC lacks effective enforcement power against both powerful and weaker states⁴⁸⁰.

The crisis of the legitimacy in the international criminal justice system is not only the result of so-called “Western double standards”, but also of the broader hypocrisy within a state-centered international system. This mean that is not only Western states that apply the law selectively, but also other states and regional actors that act inconsistently⁴⁸¹. For example, certain African governments have simultaneously sought ICC prosecutors against political opponents while criticizing the Court when it turned against them. Similar examples can be found in the

⁴⁷⁷ Kleczkowska (n 456).

⁴⁷⁸ International Center for Transitional Justice, ‘ICC Prosecutor Halt 13-Year Kenya Investigation That Failed to Produce Any Convictions’ (28 November 2023) <https://www.ictj.org/latest-news/icc-prosecutors-halt-13-year-kenya-investigation-failed-produce-any-convictions> accessed 23 March 2026.

⁴⁷⁹ International Criminal Court, ‘Situation in Darfur, Sudan: Omar Hassan Ahmad Al Bashir’ <https://www.icc-cpi.int/darfur/albashir> accessed 13 March 2026.

⁴⁸⁰ Kleczkowska (n 456).

⁴⁸¹ Labuda (n 454), 1107.

Philippines, which withdrew from the Rome Statute⁴⁸² after investigations were opened against its leadership, and in Venezuela, where cooperation with the ICC remains uncertain⁴⁸³.

The uniqueness of the Ukraine case does not lie in the discovery of selectivity, but in the fact that it made it more visible. The problem is that not all states have equal influence within the international criminal justice system. The future of international criminal law should not be exclusively on the political will of Western states but must be based on a universal acceptance of responsibility by all states. Despite existing obstacles, reliance on Western countries alone is neither realistic, nor desirable⁴⁸⁴.

The system is structurally problematic and needs to be reformed in a way that permanent members are no longer able to act as judges in their own cause.

Finally, the functioning of the ICC is not limited to immediate arrest or punishment of perpetrators. First in the case of Ukraine, the Court has jurisdiction because Ukraine has accepted its jurisdiction for crimes committed on its territory. Therefore, the absence of Russia from the Rome Statute does not prevent the ICC from investigating crimes committed on Ukrainian territory⁴⁸⁵.

However, the execution of arrest warrants depends on state cooperation, since the ICC does not have its own police force. Consequently, it is indeed very difficult to arrest Vladimir Putin as long as he remains in Russia or travels only to friendly states unwilling to cooperate.

This does not mean, however, that such proceedings are meaningless. First, the issuance of an arrest warrant significantly restricts the international mobility of the accused, as State Parties to the Rome Statute are, in principle, obliged to arrest him if he enters their territory. Second, it creates an official legal record and establishes legal responsibility, even if it cannot be immediately enforced. Third, international criminal proceedings often operate over long

⁴⁸² International Criminal Court, 'ICC Statement on the Philippines' Notice of Withdrawal of State Participation in the Rome Statute System' (20 March 2018) <https://www.icc-cpi.int/news/icc-statement-philippines-notice-withdrawal-state-participation-rome-statute-system-essential> accessed 23 May 2026.

⁴⁸³ Ibid 1115.

⁴⁸⁴ Labuda (n 454), 1115.

⁴⁸⁵ Ibid; International Criminal Court, 'Situation in Ukraine; (ICC-01/22) <https://www.icc-cpi.int/situations/ukraine> accessed 23 February 2026.

periods of time. Cases such as Slodoban Milošević⁴⁸⁶, Charles Taylor⁴⁸⁷ and Omar al-Bashir⁴⁸⁸ demonstrate that individuals who were once considered beyond reach were eventually brought before international or hybrid tribunals or lost the political protection they previously enjoyed.

Therefore, the purpose of prosecution is not only immediate punishment, but also the preservation of the principle they even heads of state are not above international law. International criminal justice often operates on a timescale of decades rather than months.

On the other hand, several scholars criticise precisely the question presented: without Russia's cooperation, the likelihood of Putin appearing in the Hague is extremely low and that, therefore, the process is mainly symbolic and political. This debate remains central in contemporary international criminal justice theory.

Conclusion

The analysis conducted throughout this thesis has demonstrated that the crime of aggression constitutes one of the most complex and politically sensitive crimes within the field of international criminal law. The lengthy process required for its definition and the delayed activation of the ICC jurisdiction over the crime of aggression, illustrates that the development of international criminal law has been shaped not exclusively by legal considerations, but also by political interests and compromises. As a result, the attribution of accountability for the crime of aggression remains a particularly complicated issue, where the principles of international justice often intersect with the interests and political priorities of states.

Regarding the first research question, the findings of this thesis demonstrate that the existing legal mechanisms are only partially capable of ensuring accountability for the crime of aggression in the context of Ukraine. Despite the existence of an increasingly developed legal framework, significant limitations continue to exist. Although the ICC constitutes the principal institution of international criminal justice, the jurisdictional restrictions governing the crime of aggression, combined with the absence of independent enforcement mechanisms, make the

⁴⁸⁶ International Criminal Tribunal for the former Yugoslavia, 'Slodoban Milošević Trial- The Prosecution's Case' <https://www.icty.org/en/content/slobodan-milošević-trial-prosecutions-case> accessed 13 March 2026.

⁴⁸⁷ Residual Special Court for Sierra Leone, 'The Prosecutor v Charles Ghankay Taylor (SCSL-03-01)' <https://rscsl.org/the-scsj/cases/charles-taylor/> accessed 13 May 2026.

⁴⁸⁸ ICC, 'Omar Al Bashir (Darfur situation)' (n 479).

effective prosecution of such violations particularly difficult. Consequently, the main problem does not lie in the absence of legal rules, but rather in the limited capacity to enforce them.

The case of Russia highlighted these weaknesses in a particular visible manner. The inability of the UNSC to take effective action, due to Russia's status as a permanent member possessing veto power exposed the limits of the existing collective security system. At the same time, it demonstrated the extent to which the functioning of international criminal justice depends upon political institutions and the willingness of states to cooperate. In this sense, the war in Ukraine did not create new weaknesses within the international system but rather brought to the surface structural problems that had already been identified both in theory and in practice.

These limitations also explain why the establishment of a Special Tribunal for the Crime of Aggression against Ukraine emerged as the most appropriate solution to address the jurisdictional gaps of the ICC. Nevertheless, the process leading to its establishment proved to be highly complex. Despite the widespread political condemnation of Russia's aggression, negotiations concerning the creation of a new judicial mechanism revealed the reluctance of many states to create legal precedents that could potentially be used against them in the future. This development illustrates that accountability for the crime of aggression continues to depend to a considerable extent on political balances rather than solely on the existence of legal rules.

Furthermore, the debate surrounding the establishment of a Special Tribunal for the crime of aggression against Ukraine highlighted many of the legal and political challenges examined throughout this thesis. Questions concerning jurisdiction, immunities, legitimacy and state consent, demonstrated that the creation of new accountability mechanisms remains closely connected to political considerations. Although, the proposed Special Tribunal may provide an effective model for addressing future acts of aggression where existing institutions are unable to act effectively, its establishment was largely facilitated by the particular circumstances of the Ukrainian case. The broad international support for Ukraine, combined with the paralysis of the UNSC due to the Russian veto, created specific conditions that are unsure if they will be replicated in future conflicts. Consequently, it remains uncertain whether a similar mechanism could be established in other situations of aggression, as such decision are likely to depend not only on legal considerations but also on the political willingness of states to support them.

At the same time, this thesis addresses its second principal objective, namely whether the responses adopted by the EU and NATO can function as complementary mechanisms of

accountability. The inability of the UNSC to undertake effective action resulted in regional organisations, to assume a leading role in supporting Ukraine and defending the fundamental principles of the international legal order. Although neither organisation possess the authority to prosecute international crimes, their political economic and strategic responses have contributed to strengthening broader mechanisms of accountability.

Particular importance was attached to the role of EU sanctions. The analysis demonstrate that sanctions should not be understood exclusively as instruments of coercion aimed at changing state behavior. Rather, they operate simultaneously through the triad of deterrence: coercion, constraint and signaling. Through coercion sanctions increase the economic and political costs associated with the continuation of unlawful conduct. Through constraint, they limit the ability of the targeted state to pursue its aggressive policies by restricting access to economic, technological and strategic resources. Finally, through signaling, sanctions express the disapproval of international community reinforce fundamental principles of international law and reaffirm that aggression cannot be regarded as acceptable behavior. In this respect, sanctions do not themselves attribute criminal responsibility, but they complement judicial mechanisms by increasing the political, economic and diplomatic costs associated with violations of international law.

Similarly, NATO has contributed to the preservation of the international legal order through the strengthening of collective defence, the provision of long-term military and financial assistance to Ukraine and its continued commitment to the principles of the rules-based international order. Although the Alliance is not a judicial institution, its actions demonstrate that accountability for grave violations of international law is promoted not only through judicial proceedings, but also through political, economic and security mechanisms aimed at safeguarding the fundamental principles upon which international society is based.

Therefore, the findings of this thesis suggest that accountability for the crime of aggression cannot be secured exclusively through international courts. Rather, it requires the combined operation of judicial political, economic and security mechanisms. Nevertheless, the effectiveness of these mechanisms remains subject to considerable criticism, particularly because of the selective manner in which international legal norms are often applied.

Moreover, the findings of the thesis suggest that the existing legal mechanisms are not, on their own, capable of ensuring accountability for the crime of aggression in the case of Ukraine.

Although the ICC and the Special Tribunal represented the principal legal avenues through which criminal responsibility can be attributed, through the analysis it became evident that accountability extends beyond the judicial sphere. In practice, it gets highly influenced by political, economic and security mechanisms which contribute to reinforcing the broader framework within which accountability operates. In this context, the responses adopted by the EU and NATO can be understood as complementary mechanisms that support accountability through political pressure, sanctions, diplomatic isolation and security measures.

Ultimately, perhaps the greatest challenge facing international criminal law is not the absence of legal rules, but whether the international community is willing to apply them consistently, even when powerful states are involved. The case of Ukraine has demonstrated that the mere existence of legal rules and institutions does not automatically guarantee accountability in practice. It also illustrates that the effectiveness of international criminal justice continues to be influenced by the broader political environment in which legal mechanisms operate, as demonstrated by the differing international responses to contemporary conflicts, including those in the Middle East. The future credibility of the international system will depend not only on the development of new mechanisms, but above all on the political willingness of states to transform the fundamental principles of international law into meaningful and equally applied outcomes.

Bibliography

Table of cases

International Court of Justice, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide* (Ukraine v Russian Federation) (Provisional Measures, Order 2024) Case No 182.

International Criminal Court, *Situation in Darfur, Sudan: Omar Hassan Ahmad Al Bashir*.

International Criminal Court, *'Situation in Ukraine (ICC-01/22)'*.

International Criminal Tribunal for the former Yugoslavia, *Prosecutor v Slobodan Milošević* (Trial Chamber).

International Criminal Tribunal for Sierra Leone, *Prosecutor v Charles Ghankay Taylor* (SCSL-03-01).

The Case of the S.S Lotus (France v Turkey) PCIJ Series A No 10 (Permanent Court of International Justice, 7 September 1927).

International instruments

Allied Control Council, Law No 10: Punishment of Persons Guilty of War Crimes, Crimes Against Peace and Against humanity (20 December 1945) Official Gazette of the Control Council for Germany No 3 (1946).

Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI.

Charter of the International Military Tribunal (signed 8 August 1945) art 6(b).

Convention for the Definition of Aggression (signed 3 July 1933) 147 LNTS.

Jackson RH, 'Speech Text (1945)' (Nuremberg Trial Opening Statement).

International Law Commission, 'Draft Code of Crimes against the Peace and Security of Mankind with Commentaries' (1996) UN Doc A/51/10.

International Law Commission, 'Report of the International Law Commission on the Work of its Seventy-First Session' (2019) UN Doc A/74/10.

International Law Commission, 'Principles of International Law Recognised in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal' (1950) Principle VI.

League of Nations, 'Resolution of the Third Committee concerning the Declaration on Wars of Aggression' (24 September 1927) in *Nazi Conspiracy and Aggression* (US Government Printing Office 1946), TC-18, Nuremberg Trials Project, Harvard Law School.

Package of Measures for the Implementation of the Minsk Agreements (OSCE, 12 February 2015).

Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90.

UNGA Res 95(I) (11 December 1946) UN Doc A/RES/95 (I).

UNGA Res 3314 (XXIX) (14 December 1974).

United Nations, 'Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States' (United Nations Audiovisual Library of International Law).

EU/UN/NATO & Institutional Sources

Andrew S Corbett and Annamarie Binednagel-Sehovic, *Acculturation of the Core Concepts of European Security* in NATO STOP-MP-SAS-141

Council of Europe, 'Frequently Asked Questions – Special Tribunal for the Crime of Aggression against Ukraine'.

Council of Europe, 'Register of Damage for Ukraine (RD4U)'.

Council of Europe, Statute of the Special tribunal for the Crime of Aggression against Ukraine (2025).

Council of the European Union, 'EU Battlegroups'.

Council of the European Union, 'EU response to Russia's military aggression against Ukraine'.

Council of the European Union, 'Hybrid Threats'.

Council of the European Union, 'Impact of sanctions on the Russian economy'.

Council of the European Union, 'Political and Security Committee (PSC)'.

Council of the European Union, 'Timeline: Russia's military aggression against Ukraine'.

Council of the European Union, 'Timeline – EU sanctions against Russia'.

Council of the European Union, ‘Why Sanctions?’.

Council of Europe and Ukraine, Agreement between the Council of Europe and Ukraine on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine.

Eurojust, ‘International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA)’

Eurojust, ‘The Crime of Aggression in the National laws of EU Member States, Genocide Network Observer States and Ukraine’ (September 2023).

European Commission, ‘EU Cybersecurity Strategy’.

European Commission, ‘What is the Rule of Law?’.

European Commission, ‘REPowerEU: phase-out of Russian energy imports’.

European Commission, Research and Innovation, ‘Strategic Autonomy and European Economic and Research Security’ (2026).

European Commission, ‘Common Foreign and Security Policy (CFSP)’.

European External Action Service, ‘EU Advisory Mission Ukraine’.

European External Action Service, ‘EU Advisory Mission Ukraine- building sustainable capacities in war-affected areas’ (2025).

European External Action Service, ‘EU-NATO Strategic Partnership’.

European External Action Service, ‘Increasing the Effectiveness of Sanctions’ (9 January 2025).

European External Action Service, ‘Strategic Compass for Security and Defence’

European External Action Service. ‘Ukraine and Council of Europe Sign Landmark Agreement for Special Tribunal on Crime of Aggression’.

European Parliament, ‘Motion for a Resolution’ B9-0433/2022

Eurostat, 'EU Trade with Russia-Latest Developments'.

International Committee of the Red Cross, 'General Principles of International Criminal Law' (Advisory Service on International Humanitarian Law, 2014).

International Criminal Court, 'ICC Statement on the Philippines' Notice of Withdrawal of State Participation in the Rome Statute System'.

International Criminal Court, *Rome Statute of the International Criminal Court (1998, as amended)*.

International Criminal Court, 'The ICC at a Glance (Factsheet)'.

Ministry of Foreign Affairs of Ukraine, 'The Core Group on the Establishment of the Special Tribunal Defined the Legal Framework for the Establishment of the Special Tribunal for the Crime of Aggression Against Ukraine'.

Ministry of Foreign Affairs of Ukraine, 'Ukraine's Achievements in Prosecutorial Independence: Details of the OECD Report'.

NATO, 'A Short History of NATO'.

NATO, 'Collective Defence and Article 5'.

NATO, 'Finland Joins NATO as 31st Ally' (4 April 2023).

NATO, 'NATO's support for Ukraine'

NATO, 'New NATO Force Model' (June 2022).

NATO, 'NATO 2022 Strategic Concept'.

NATO, 'NATO's Purpose'.

NATO, 'Readiness Action Plan'.

NATO, 'Relations with Ukraine'

NATO, 'Relations with Russia'

NATO, 'Response Force (2002-2024).

NATO, 'Strategic Concept 2010'.

NATO, 'Secretary General condemns moves to incorporate Crimea into Russian Federation' (18 March 2014).

NATO, Supreme Headquarters Allied Powers Europe (SHAPE), 'The Very High Readiness Joint Task Force'.

NATO, 'Special Operation Forces'.

NATO, 'Sweden Officially Joins NATO' (7 March 2024).

NATO, 'Vilnius Summit Communiqué'.

NATO, 'Wales Summit Declaration' (5 September 2014).

OECD/MFA Ukraine, 'Ukraine's Achievements in Prosecutorial Independence: OECD Report'.

Office of the Historian, US Department of State, 'The Paris Peace Conference and the Treaty of Versailles' (Milestones in the History of US Foreign Relations, 1914-1920).

Office of the Prosecutor of the International Criminal Court, 'Informal Expert Paper: The Principle of Complementarity in Practice' (ICC-OTP 2003).

Office of the United Nations High Commissioner for Human Rights, *Rome Statute of the International Criminal Court*.

United Nations Security Council, *Letter dated 12 August 2022 from the President of the Security Council addressed to the secretary-General and the Permanent Representatives of the members of the Security Council* (S/2022, 12 August 2022).

United Nations, Codification Division, 'Repertory of Practice of UN Organs: Article 39 UN Charter'.

United Nations Security Council, *Repertoire of the Practice of the Security Council, 1975-1980, Chapter VIII: Complaint by Benin*.

United Nations Security Council, Provisional Rules of Procedure (S/96/Rev.7).

United Nations Security Council Report, 'The Veto'.

US Department of Commerce, 'Indo-Pacific Economic Framework for Prosperity (IPEF)' (US Department of Commerce).

US Department of War, 'AUKUS: The Trilateral Security Partnership between Australia, the United Kingdom and the United States'.

Books/Monographs/Edited Volumes

Guimelli F, *Coercing, Constraining and Signaling: Explaining UN and EU Sanctions After the Cold War* (ECPR Press 2011).

Kreß C and Barriga S (eds), *The Crime of Aggression A Commentary* (2 vols, Cambridge University Press 2017).

Maass A-S, 'The EU's Changing Strategy towards Russia: The Response to Aggression' in *Europe's World: Policy Paradigms, Strategic Thinking and the Anti-Liberal Challenge* (Bristol University Press 2025).

Moravcsik A, *Liberal Intergovernmentalism and European Integration* (Princeton University Working Paper/ book-length academic monograph).

Panke D, 'Small States in EU Decision-Making: How Can They Be Effective?' in Baldersheim H and Keating M (eds), *Small States in the Modern World: Vulnerabilities and Opportunities* (Edward Elgar 2015).

Journal Articles

Amin S, 'The ICC Limits in Prosecuting the Crime of Aggression' (2026) 9(2) *International Journal of Law and Society*.

Dolan C, 'NATO, the Russian Invasion of Ukraine and the 2022 Strategic Concept' (2022) *Georgetown Journal of International Affairs*.

Ferencz BB, 'Ending Impunity for the Crime of Aggression' (2009) 41 *Case Western Reserve Journal of International Law*.

Gheciu A and von Hlatky S, 'Irreconcilable Differences? NATO's Response to Russian Aggression' (2024) 79 *International Journal*.

Godara AK, 'Economic Sanctions as Geopolitical Weapons: Structural Power, Intermediary States and the Fragmentation of Global Economic Order' (2026) 8(2) *International Journal of Political Science and Governance* 204-215.

Grzebyk P, 'Crime of Aggression against Ukraine' The Role of Regional Customary Law' (2023) 21(3) *Journal of International Criminal Justice*.

Hardt H, 'NATO after the Invasion of Ukraine' (2024) *International Politics*.

Heller KJ, 'Retreat from Nuremberg: The Leadership Requirement in the Crime of Aggression' (2007) 18(3) *European Journal of International Law*.

Kai Ambos, 'Ukraine and the Double Standards of the West' (2022) 20(4) *Journal of International Criminal Justice* 875-892.

Keller AN, 'Punishment for Violations of International Criminal Law: An Analysis of Sentencing at the ICTY and ICTR' (2001) 12(1) *Indiana International & Comparative Law Review* 53.

Kestenbaum JG, 'Closing Impunity Gaps for the Crime of Aggression' (2016) 17(2) *Chicago Journal of International Law*.

Kleczkowska A, 'Judging its own Case-the Abuse of the Veto Power by Russia' (2023) 14 *Czech Yearbook of Public & Private International Law*.

Kovtun OY and Terzi DV, 'Military and Political Changes in NATO' (2024) 161 *Actual Problems of International Relations*.

Marschner L and Olma I, 'The First Review Conference of the International Criminal Court' (2010) 8(4) *Journal of International Criminal Justice*.

Martens C, 'Carrot as Sticks: How Effective Are Sanctions?' (2024) 68(2) *International Studies Quarterly*.

Sarwar N, 'Expansion of the United Nations Security Council' (2013) 33 *Strategic Studies*.

Nugroho DS and Setiyono J, 'International Criminal Accountability for War Crimes in the Ukraine-Russia Conflict: A Juridical Analysis Based on the 1998 Rome Statute' (2025) 8(9) *International Journal of Social Science and Human Research*.

Andreasson P, 'Reviewing the Crime of Aggression: A Defining Moment for International Criminal Law' (2025) Global Challenges Foundation.

Labuda Patryk I, 'Beyond Rhetoric: Interrogating the Eurocentric Critique of International Criminal Law's Selectivity in the Wake of the 2022 Ukraine Invasion' (2023) 36(4) *Leiden Journal of International Law*.

Pertiwi LA, 'The EU's Approach to Sanctions on Russia' (2024) 18(3) *CEJISS*.

Podraza Andrej, 'The transformation of NATO's Roles in Shaping Global Order and Security Governance' (2025) 31(2) *Journal for Perspectives of Economic Political and Social Integration*.

Rahaman H, Ali A Ahmed F, Afrin S and Afroze S, 'The Selective Application of Justice: Comparing ICC investigations in Ukraine and Palestine' (2026) 16(1) *Open Journal of Political Science*.

Sarkin J and Almeida J, 'Understanding the Activation of the Crime of Aggression at the International Criminal Court: Progress and Pitfalls' (2019) 36 *Wisconsin International Law Journal*.

Sliwiński K, 'The Problematic Effectiveness of EU Sanctions' (2026) *World and New World Journal*.

Online Sources/Reports/Think Tanks/News

Akande D, 'What Exactly Was Agreed in Kampala on the Crime of Aggression?' (EJIL: Talk!, 21 June 2010).

Amnesty International, 'A Chance for Africa to Counter the Pitfalls of International Criminal Justice?' (22 April 2024).

Bentzen N, 'Russia-Ukraine Conflict Flares Up in the Azov Sea' (EPRS, November 2018).

Center for Strategic and International Studies (CSIS), 'Europea Union Imposes Partial Ban on Russian Oil'

Center for Strategic and International Studies (CSIS), 'How Sanctions Have Reshaped Russia's Future'.

Coalition for the International Criminal Court, 'Bridging the Jurisdictional gap: The ASP's Long-Awaited Review of the Crime of Aggression'.

Coalition for the International Criminal Court, *The Crime of Aggression within the Rome Statute of the International Criminal Court* (Factsheet, 27 November 2019).

Coalition for the International Criminal Court, 'State Cooperation'.

CORDIS, 'EU/Ukraine Partnership and Cooperation Agreement' (1994).

Council on Foreign Relations, 'How Russia's invasion of Ukraine Violates International Law'.

Council on Foreign relations, 'Impact of Sanctions on the Russian Economy'.

Council on Foreign Relations, Center for Preventive Action 'War in Ukraine'.

Council on Foreign Relations, 'What Are Economic Sanctions?'.

Demertzis M, 'The Limits of EU Sanctions on Russia' European Center for Constitutional and Human Rights (ECCHR), *Reform of the ICC's Jurisdiction over the Crime of Aggression: Information Brief* (2025).

European Center for Constitutional and Human Rights (ECCHR), *Reform of the ICC's Jurisdiction over the Crime of Aggression: Information Brief* (2025).

European Council on Foreign Relations (ECFR), 'Signal, Constrain, Coerce: A More Strategic Use of Sanctions' (23 June 2017).

European Council on Foreign Relations (ECFR), 'The Ticking Clock: Why NATO's Deterrence Against Russia is Under Pressure' (16 February 2026).

European Council on Foreign Relations (ECFR), 'Ukraine and the Limits of International Justice'.

EU Neighbours East, 'EU and Ukraine Open First Accession Negotiations Cluster on Fundamentals' (16 June 2026).

Einarsen T, 'ICC's Jurisdiction over the Crime of Aggression: Amending Article 5 Instead of Article 15bis (Part I)' (Opinio Juris, 18 April 2025).

Falk R, 'Geopolitics and International State Crime: An Accountability Black Hole' (OpenDemocracy, 15 December 2014).

Ferdinandusse W, 'In Absentia Trials and the Special tribunal for the Crime of Aggression Against Ukraine' (Just Security ,15 May 2026)

Freifeld K, 'ICC Prosecutor Pushes Back on Special Tribunal for War Crimes in Ukraine', *Courthouse News Service*.

Grant TD, 'Removing Russia from the Security Council: Part One' (Opinio Juris, 18 October 2022).

Global Campaign for the Prevention of Aggression, 'Conditions for Action by the ICC'.

Investopedia, ‘Dollar Weaponization: What It Is and How It Works’ (Global Challenges Foundation).

International Center for Transitional Justice, ‘ICC Prosecutor Halts 13-Year Kenya Investigation That Failed to Produce Any Convictions’ (28 November 2023).

International Nuremberg Principles Academy, ‘Nuremberg Declaration on the Crime of Aggression’ (8 May 2023).

Kennedy C, ‘Russia Shipped 80% of its 2025 Oil Exports to China and India’ (OilPrice.com, 27 February 2026).

Melgosa Hervás MR, ‘The Nord Stream 2 Divides the EU’ (Universidad de Navarra Global Affairs and Strategic Studies, 5 June 2018).

Menkiszak M and Prochwicz Jazowska M, ‘The Ticking Clock: Why NATO’s Deterrence against Russia IS Under Pressure’ (European Council on Foreign Relations, 16 February 2026).

Opinio Juris, ‘Double Standards in International Law: Critical reflections for an Academic Lens for Teaching and Research’ (21 July 2025).

Pamilla Andreasson ‘Reviewing the Crime of Aggression: A Defining Moment for International Criminal Law’ (4 July 2025)

Parkhomenko Y, ‘Courts in Wartime: A Level Playing Field for Peace’ (Just Security, 18 February 2026).

Parliamentarians for Global Action, ‘The Rome Statute and the UN Security Council’.

Röben V, ‘Accountability’ in *Max Planck Encyclopedia of International Procedural Law* (online edn, OUP 2020).

Sikkink K, ‘Using the 1933 Soviet Definition of Aggression to Condemn Russia Today’ (Just Security, 24 May 2022).

Suardi NS, Gloria I and Septiani V, ‘A Blunt Tool of Justice: The ICC’s Ongoing Challenges in Enforcing Accountability’ (PILS UNPAR, 2 December 2025).

Sunday Independent Dispatch, 'Boomerang Effect: Western Sanctions on Russia's Fleet at Sea and the Wider Economic Impact' (13 December 2025).

Taylor P, 'How Effective Has NATO Been in Ukraine?' (European Policy Centre, 27 June 2024).

TRT World, 'Russia Redirects Major Oil Exports from Europe to China, India: Deputy PM' (27 December 2023).

United Nations News, 'International Criminal Court Welcomes Palestine as State Party to the Rome Statute'.

UN Audiovisual Library, 'UN/Ukraine Resolution Veto' (25 February 2022).

Wenaweser C. and Alavi S., 'A Special Tribunal for the Crime of Aggression Against Ukraine: Origins, Debates and Implications' (Yale Journal of International Law).

Dissertations/Theses

Lucas Sánchez AC, *How the War in Ukraine Shaped EU Foreign Policy towards Russia: A Comprehensive Analysis of the Economic, Defense and Diplomacy Factors* (Bachelor thesis, Universidad Pontificia Comillas, April 2023).