

'No one from Russia's leadership is untouchable': EU supports establishment of Special Tribunal for the crime of aggression against Ukraine

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On 4 February, senior legal experts of the European Commission, the European External Action Service, the Council of Europe, Ukraine and 37 states laid down the legal foundations for the establishment of a Special Tribunal for the Crime of Aggression against Ukraine. The participants also set out the key elements of the 'Schuman draft Statute', the core legal text that will govern the functioning of the Special Tribunal.

Once operational, the Tribunal will have the power to hold to account Russian political and military leaders, who bear the greatest responsibility for the crime

of aggression.

This meeting was “a breakthrough” in a process towards ensuring accountability for the crime of aggression against Ukraine and upholding the international criminal justice system, the European Commission said in a press release.

“There has to be a clear division between war crimes and the crimes of aggression,” EU High Representative Kaja Kallas told journalists. *“War crimes can be prosecuted by the ICC (International Criminal Court), but the crime of aggression can only be prosecuted by [a] Special Tribunal. It is clear that the crime of aggression is a leadership crime [...] Therefore, it is extremely important that there is also accountability for the crime of aggression. No one from Russia’s leadership is untouchable. That is the message that this tribunal sends.”*

“There can also be no justice without compensation. Russia must be held accountable for its aggression – and it must pay. We made a first step towards a Claims Commission with the participation of the EU. This new body will determine claims recorded in the Register of Damage,” European Commission President Ursula von der Leyen said.

Yesterday, the European Commission also adopted a Recommendation to the Council of the EU to participate in the formal negotiations to set up an International Claims Commission for Ukraine. The Claims Commission will be the body responsible to review, assess and decide eligible claims recorded in the Register of Damage and to determine the amount of compensation due in each case. The Register of Damage serves as a record of damages, loss or injury caused by the aggression of the Russian Federation against Ukraine.

The Special Tribunal will be established by an agreement between the Government of Ukraine and the Council of Europe. It will derive its jurisdiction from Ukraine. The Council of Europe will be in charge of the procedure for adoption of the draft legal instruments necessary for the establishment of the Special Tribunal and subsequent signature.

For the Claims Commission, the first round of negotiations for the international instrument will start towards the end of March 2025.