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Further escalation in the Russian Federation's aggression against Ukraine

Report[1]
Committee on Political Affairs and Democracy
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Summary

The Russian Federation's large-scale aggression of Ukraine continues to provoke immense suffering, destruction and displacement to a level unseen in Europe since the Second World War.

In recent weeks, the Russian Federation has taken political, military and rhetorical steps which indicate a further escalation of the aggression. It organised so-called referendums in occupied areas in contravention of international law, illegally claimed annexation of these territories, and increased its threats of nuclear warfare. This came on the heels of an intensification of Russia's indiscriminate use of long-range artillery to target towns and cities across Ukraine.

This escalation has come in a context of continued repression and rising tensions inside the Russian Federation, exacerbated by President Putin's announcement of a partial mobilisation on 21 September 2022. In its actions abroad and domestically, the Russian regime aims to provoke a state of terror in the general public for political purposes.

The Parliamentary Assembly strongly condemns the recent escalation, reiterates its firm support for the sovereignty, independence and territorial integrity of Ukraine within its internationally recognised borders, and urges member States to ensure a comprehensive system of accountability for serious violations of international law arising from the Russian Federation's aggression against Ukraine.

1. Reference to committee: Bureau decision, Reference 4662 of 10 October 2022.

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A. Draft resolution[2]

1. Eight months have elapsed since the Russian Federation launched a large-scale invasion of Ukraine. This brutal and inhumane aggression is provoking immense suffering, destruction and displacement, to a level unseen in Europe since the Second World War. This aggression must be unequivocally condemned as a crime in itself, as a violation of international law and as a major threat to international peace and security.

2. In the past few weeks, the Russian Federation has taken political, military and rhetorical steps which indicate a further escalation of the aggression. Marred by blatant intimidation of voters and held on the front lines of an ongoing armed conflict, the so-called referendums held in the Ukrainian regions of Donetsk, Kherson, Luhansk and Zaporizhzhia between 23 and 27 September 2022 are a travesty, in contravention of international law and contrary to any substantive and procedural standards for holding referendums. They must be considered null and void and with no legal or political effects.

3. Similarly, the attempted annexation of these regions by the Russian Federation is an affront to international law. The Parliamentary Assembly strongly condemns this blatant attempt to incorporate territory belonging to another sovereign State through force and coercion and reiterates its firm support for the sovereignty, independence and territorial integrity of Ukraine within its internationally recognised borders. The Assembly recalls that the Russian Duma had voted in favour of the invasion and annexation of Crimea, and notes with great concern that it also validated these more recent illegal attempted annexations. This is further demonstration that the Russian Duma cannot be treated like an equal partner among free and fairly elected parliaments of democratic countries.

4. While continuing its illegal occupation and militarisation of the power plant in Zaporizhzhia, the leadership of the Russian Federation has increased threats of nuclear warfare. In addition to being abhorrent and reckless, such threats are in breach of international law and incompatible with the responsibilities of a nuclear power holding a permanent seat in the United Nations Security Council.

5. The humanitarian situation in Ukraine remains dire. Almost 5 800 civilians are estimated to have died and one third of Ukrainians have been forced from their homes since 24 February 2022. Prisoners of war held by the Russian Federation's armed forces or by affiliated armed groups face torture and ill-treatment, and in some cases are being tried and sentenced to death, in clear contravention of international humanitarian law. The Assembly is outraged by the discovery of mass graves in cities and towns liberated by the Ukrainian forces, and firmly condemns all war crimes.

6. The continued use of long-range artillery by the Russian military to hit towns and cities across Ukraine has caused massive destruction and death. On 10 October 2022, a barbaric set of missile attacks targeted several Ukrainian cities, hitting public squares, playgrounds and residential buildings. With these indiscriminate attacks, Russia aims to advance its terrorist policy to suppress the will of Ukrainians to resist and defend their country and provoke maximum harm to civilians. The role of the illegitimate Lukashenko regime in helping the Russian Federation's aggression against Ukraine must not be forgotten. The recent announcement that Belarusian troops would deploy alongside Russian ones is deeply concerning and must be widely condemned.

7. Meanwhile, the climate in the Russian Federation is one of increasing repression. The authorities have implemented a far-reaching crackdown on civil liberties based on intimidation and open persecution, with the goal to provoke a state of terror in the general public for political purposes. Democratic figures are being repressed or killed, the system of opposition parties has been destroyed, the judiciary is not independent and many media and civil society organisations, such as Memorial International, have been closed down. Despite the many draconian measures passed in recent years, anti-war demonstrations and protests have been breaking out across the country. Amongst the most prominent public figures being persecuted for voicing criticism against the war is Vladimir Kara-Murza, who has been detained since April 2022. On 10 October 2022, the Assembly was honoured to award Mr Kara-Murza with the 2022 Václav Havel Prize, affirming support for his courage and determination to create a peaceful, democratic Russia.

8. President Putin's announcement of a partial mobilisation on 21 September 2022 is yet another sign of escalation, which has created tensions in the country. Protests at draft centres have at times turned violent, and hundreds of thousands of Russian men have attempted to flee the country to avoid a potential callup. The apparent deliberate attempt by the Russian authorities to disproportionately focus their mobilisation campaign

2. Resolution adopted unanimously by the committee on 11 October 2022.

on ethnic minority groups, including the population of Dagestan and Crimean Tatars who are mobilised in the Ukrainian territories temporarily occupied by Russia, is of great concern to the Assembly. It is also unacceptable that detainees across Russia are being sent to fight in Ukraine.

9. The unleashing of a war of aggression by a permanent member of the United Nations Security Council poses a challenge to global governance. The Assembly deeply regrets that on 30 September 2022 the United Nations Security Council was not able to adopt a resolution condemning the recent referendums due to the Russian Federation's veto, notwithstanding no other negative votes. In this context, the Assembly notes the increasing support for a reform of the United Nations Security Council and welcomes a greater role for the United Nations General Assembly including in issues relating to maintaining international peace and security.

10. The Assembly reiterates its full support for Ukraine and emphasises the importance for the international community to work together for the country's recovery and long-term peaceful and prosperous future. At the same time, the Assembly calls for a comprehensive system to hold the Russian Federation and its leadership accountable for this aggression and the violations of international human rights and international humanitarian law committed in this context.

11. In the light of the above considerations, while reiterating its relevant resolutions and recommendations adopted since the beginning of the large-scale aggression, the Assembly calls on Council of Europe member States to:

11.1. reiterate their unwavering support for the independence, sovereignty and territorial integrity of Ukraine, within its internationally recognised borders;

11.2. unequivocally condemn the so-called referendums held in the Ukrainian regions of Luhansk, Donetsk, Zaporizhzhia and Kherson between 23 and 27 September 2022, and to refrain from recognising any effects of them;

11.3. condemn the Russian Federation's attempted annexation of the regions of Luhansk, Donetsk, Zaporizhzhia and Kherson as a violation of international law and a major threat to international peace and security, and to avoid recognising any effects of it;

11.4. be firm and united in exerting a policy of maximum pressure on the Russian Federation to immediately cease its aggression;

11.5. support financially the reconstruction of Ukraine;

11.6. ensure a comprehensive system of accountability for serious violations of international law arising from the Russian Federation's aggression against Ukraine actively co-operating with the Ukrainian authorities on this issue, and, in this context:

11.6.1. speed up the establishment of a Special (*ad hoc*) International Tribunal to prosecute the crime of aggression against Ukraine;

11.6.2. establish a system to examine the measures to ensure and secure accountability;

11.6.3. set up a comprehensive international compensation mechanism, including an international register of damage and actively co-operate with the Ukrainian authorities on this issue.

12. Given the unprecedented gravity of the Russian Federation's aggression as a threat to international peace and security, the rules-based international order, international law and the most basic values which are the foundation of the Council of Europe, the Assembly appeals to the Heads of State and Government of Council of Europe member States to gather in the fourth Summit in the history of the Organisation and put the issue of accountability of the Russian Federation, as well as support to Ukraine, high on the agenda of the Summit.

13. Furthermore, while reiterating its previous recommendations addressed to the Russian Federation since the outbreak of its aggression against Ukraine, the Assembly calls on the Russian Federation to:

13.1. cease its aggression against Ukraine immediately and unconditionally;

13.2. completely and unconditionally withdraw its occupying forces, including its military and proxies, from the territory of Ukraine within its internationally recognised borders;

13.3. withdraw its troops from the territory of Georgia and the Republic of Moldova;

13.4. comply strictly with its obligations under international law, international human rights law and international humanitarian law, including with regard to the treatment of prisoners of war;

13.5. immediately stop attacks against civilians, including indiscriminate attacks against populated areas, targeted killings and abductions, torture, rape and sexual violence, and investigate all allegations of such crimes;

13.6. fully withdraw from all Ukraine's nuclear facilities, stop and refrain from making them the target of any military activity and co-operate fully with the International Atomic Energy Agency to ensure their safety and security;

13.7. stop threatening recourse to nuclear weapons and commit not to use them;

13.8. stop using energy as a blackmail tool;

13.9. stop supporting hacking attacks on democratic countries and their institutions;

13.10. stop interfering with electoral processes and refrain from financing anti-European activities of extremist pro-Russian parties and movements in democratic countries;

13.11. co-operate with the investigations and proceedings that have been established by the International Criminal Court and the International Court of Justice and comply with their decisions;

13.12. co-operate with UN treaty bodies, submitting reports and information to them when required to do so, allowing country visits and complying with their recommendations;

13.13. co-operate with the Commission of Inquiry on Ukraine and the Special Rapporteur on human rights in Russia, which have been set up by the Human Rights Council, and comply with their recommendations;

13.14. comply with the recommendations set out by the Moscow Mechanism of the Organization for Security and Co-operation in Europe (OSCE), and laid down in the reports on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine (1 April-25 June 2022) and on Russia's Legal and Administrative Practice;

13.15. co-operate with proceedings before the European Court of Human Rights, implement outstanding judgements and those which the Court will adopt for acts committed before 16 September 2022;

13.16. adopt without delay effective general measures to address the structural and systemic problems identified by the European Court of Human Rights and the Committee of Ministers with regard to freedom of assembly, freedom of expression and the right to liberty in the Russian Federation, including by repealing or amending laws that have only exacerbated such problems, including the laws on "foreign agents", "undesirable organisations", "extremism" and "fake information on the Russian military";

13.17. co-operate with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), as long as the Russian Federation remains a Party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), and allow the monitoring of the reported political prisoners' state of health and conditions of detention pending their release or re-examination of their cases.

14. The Assembly asks the OSCE to continue to evaluate, through the Moscow Mechanism or other appropriate tools, the violations of international humanitarian and human rights law, war crimes and crimes against humanity committed in Ukraine; the human rights situation in the Russian Federation; and the Russian Federation's aggression against Georgia and the Republic of Moldova.

15. In the light of the gravity of the international situation, the Assembly calls on international organisations to consider appropriate measures to avoid that the Russian regime uses staff of Russian nationality as a vehicle to support the Russian Federation's aggression against Ukraine, spread false information and Russian narratives about it and to influence these organisations' political decisions.

16. As regards its own work, the Assembly should continue to follow developments relating to the Russian Federation's aggression against Ukraine.

B. Explanatory memorandum by Mr Emanuelis Zingeris, rapporteur

1. Origin of the report, scope and procedure

1. The present report has been prepared for a debate under urgent procedure, according to Rule 51 of the Parliamentary Assembly's Rules of Procedure. Because of the short time available for its preparation, it covers only a few, but very significant recent developments of the Russian Federation's aggression against Ukraine. A number of other reports which are currently under preparation in different Assembly committees under the ordinary procedure will delve in-depth into subject matters which I could only mention briefly in this work but deserve attentive consideration.

2. Introduction

2. More than eight months since the beginning of the brutal, illegal, unjustified and unjustifiable large-scale aggression by the Russian Federation, the Ukrainian people stand firm in their resolve to defend themselves and liberate their country from the invader.

3. At the same time, confronted with a major threat to peace and security, the other European States are putting up a common front, united by their common values, and stand firm in their resolve not to let the aggressor prevail. They are supporting Ukraine in its right to defend itself; welcoming Ukrainians fleeing for their safety; and pledging to invest in the reconstruction of the country. They are showing their commitment to rules-based multilateralism. They are also taking steps to secure their independence from the Russian Federation in the strategic sector of energy and to ensure that it is held accountable for its crimes and violations of international law.

4. As the war of aggression continues, the Russian Federation is taking rhetorical, military and political steps which lead to a recrudescence of violence and risk an enlargement of the conflict. The Russian Federation's attempt to illegally annex four regions of Ukraine through so-called referendums represents yet another serious breach of the Charter of the United Nations. While announcing a partial military mobilisation and increasing repression domestically, on the international scene the Russian leadership is sharpening its confrontational rhetoric towards what it calls "the West", hinting at the possibility of using nuclear weapons, calling for a new international order and trying to consolidate ties with countries such as Belarus, China, Iran, North Korea and Syria.

5. The Russian Federation's aggression against Ukraine has political consequences of global proportions. Unfortunately, being a veto-holder in the United Nations Security Council (UNSC), the aggressor can also block any action of the UNSC that tries to preserve peace and security. The unity of like-minded States who cherish peace and support rules-based multilateralism is more than ever necessary at this dangerous juncture in history.

3. The situation on the ground

3.1. Military developments

6. While the late spring and early summer was a period of relative military stalemate, things have changed significantly over the last two months. Ukraine launched counteroffensive operations in the south of the country in late August, and in the northeast in early September. By 13 September, President Zelenskyy said that Ukrainian forces had retaken roughly 8 000 square kilometres from Russian forces.

7. In October, Russian troops withdrew from the strategic eastern city of Lyman, which had been turned by them into a logistical base, and Ukrainian troops liberated numerous villages throughout Kherson, Donetsk and Luhansk; the latter had, until recently, been almost entirely under Russian control. Russian war correspondents spoke of "catastrophic retreats" in the east, and journalists received testimonies of Chechen militias shooting at Russian soldiers fleeing the front.

8. As Russian forces lose ground, they have increased use of long-range artillery to cause death and panic in Ukrainian towns and cities, sometimes far from the battlefield. Nikopol, Zaporizhzhia, Mykolaiv and Berislav in particular were the scenes of multiple rocket attacks targeting residential areas over the first weeks of October, with the Ukrainian military citing the use of Iranian-made kamikaze drones in addition to more traditional artillery. Retreating Russian troops have also been attempting to destroy bridges and crossings in order to slow the Ukrainian advance.

9. In another major military blow for Moscow, the illegally occupied Crimean peninsula suffered several attacks over the past few months. Blasts destroyed several fighter jets at a Russian base in Crimea in August, and a week later huge explosions rocked an ammunition depot, with Ukrainian officials claiming that an elite military unit operating behind enemy lines was responsible. On 8 October, an explosion damaged part of the heavily guarded bridge connecting Russia to Crimea, which, in addition to being an important symbol of the Russian occupation, has been a key logistics link for Russian troops in southern Ukraine.

10. On 10 October, in the most widespread, indiscriminate and barbaric set of Russian missile attacks since the early weeks of the aggression, explosions hit the capital Kyiv as well as numerous other cities across the country, including Lviv, Dnipro and Zaporizhzhia, killing score of civilians and damaging civilian infrastructure.

3.2. Human suffering and material devastation

11. The United Nations have corroborated 14 059 civilian casualties to date since the beginning of the latest aggression in February, with 5 767 people killed and 8 292 injured, but the actual numbers are likely considerably higher.[3] One third of Ukrainians have been forced from their homes, with almost seven million people internally displaced and a similar amount seeking shelter abroad.[4]

12. The Russian military has continued using long-range artillery in order to hit inhabited residential centres in towns and cities across Ukraine, even far from the battlefield, causing destruction and countless deaths among civilians. The destruction brought on by the Russian aggression will have enormous financial consequences as well. According to a study from the Kyiv School of Economics, the aggression had caused $108.3 billion in damage to the country's infrastructure as of August.[5] Other reports based on public evidence estimate the total at $114.5 billion.[6]

13. The discovery of mass graves in liberated cities and towns raised outrage about war crimes committed by occupying Russian forces. Most recently, a mass burial site containing around 440 bodies was found in Izyum after it was liberated in late September, and upon liberating Lyman in early October Ukrainian forces found two mass graves, with one of them believed to contain around 200 civilians.

14. In her recent "memorandum on the human rights consequences of the war in Ukraine,"[7] the Council of Europe Commissioner for Human Rights paints a bleak picture of the wide-ranging and devastating effects of the conflict. The aggression "resulted in serious and massive violations of human rights and international humanitarian law, with disastrous effects on the enjoyment of virtually all human rights by people in Ukraine." The Commissioner writes of being confronted with compelling evidence of patterns of violations of the right to life committed by Russian troops, including arbitrary killings and enforced disappearances; violations of the right to property, including massive destruction of civilian infrastructure; cases of torture and ill-treatment, gender-based violence and war-related sexual violence; and violations of the right to liberty and security, including abductions and arbitrary or incommunicado detention.

15. This grim overview is confirmed by the second Moscow Mechanism report on Ukraine, published on 14 July 2022, which highlighted "the magnitude and frequency of the indiscriminate attacks carried out against civilians and civilian objects, including sites where no military facility was identified." The report pointed to "credible evidence that hostilities were conducted by Russian armed forces disregarding their fundamental obligation to comply with the basic principles of distinction, proportionality and precaution that constitute the fundamental basis of International Humanitarian Law".[8]

16. Further contributing to the despicable humanitarian situation is the use of paid mercenaries by the Russian authorities to fight in Ukraine, including from the Wagner Group, which have already been widely used in proxy conflicts in Africa and the Middle East to spread terror among civilian populations. Akhmad-Khadzhi Kadyrov's Chechen paramilitary organisation is also being deployed to Ukraine.

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3. "Ukraine: More than 14,000 casualties to date but 'actual numbers are likely considerably higher'", *UN News*, 9 September 2022.
4. www.unhcr.org/ua/en/internally-displaced-persons.
5. "War Has Caused $108 Billion In Damage To Ukraine's Infrastructure, Study Finds", *Forbes*, 2 August 2022.
6. www.statista.com/statistics/1303344/ukraine-infrastructure-war-damage/.
7. The Commissioner publishes her memorandum on the human rights consequences of the war in Ukraine, Council of Europe Commissioner for Human Rights, 8 July 2022.
8. Report of the OSCE Moscow Mechanism's mission of experts entitled "Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine (1 April-25 June 2022)", OSCE, 14 July 2022.

17. The UN Human Rights Monitoring Mission in Ukraine has documented a range of violations against prisoners of war held by the Russian Federation's armed forces or by affiliated armed groups, including torture and ill-treatment as well as lack of adequate food, water, healthcare and sanitation. Regrettably, while human rights monitors have been granted unimpeded access to places of internment and detention in Ukrainian-controlled territory, Russia has not provided access to prisoners of war held on its territory or in territory under occupation.[9] In late July, dozens of Ukrainian prisoners of war were massacred in a missile strike that hit a detention centre in Russian-controlled eastern Ukraine, in what President Zelenskyy characterised as a false flag attack by Russia.

18. Prisoners of war in Russian-controlled areas are being tried, prosecuted, and even given death sentences for the mere participation in hostilities as combatants, in contravention of Additional Protocol I of the Geneva Conventions. There have also been reports of Russian-backed armed groups setting up trials for Ukrainian prisoners of war in a so-called 'international tribunal' in Mariupol. International humanitarian law prohibits the establishment of courts solely to try prisoners of war.[10] Further, Russian forces have attempted to argue that non-Ukrainian nationals who are fighting within Ukrainian armed forces are not protected by international humanitarian law, which is untrue.

19. The destruction of Ukraine's cultural heritage is also used as a weapon of war. As Ukraine's Deputy Minister of Culture and Information Policy Kateryna Chueva recently reminded the UN Security Council, "the President of Russia, Mr Putin, announced that Ukrainian culture and identity is a target of this war."[11] Her ministry has verified damage and destruction to at least 423 objects and institutions of cultural heritage since the invasion began in February, and UNESCO has also condemned the repeated attacks on Ukrainian cultural sites such as religious buildings, historical buildings, cultural centres, monuments, museums and libraries.[12]

4. The illegal "referendums"

4.1. A travesty

20. Between 23 and 27 September 2022, Russian-backed authorities conducted so-called referendums across four partially occupied regions of Ukraine: Luhansk, Donetsk, Zaporizhzhia and Kherson. The vote had been announced only three days before, on 20 September.

21. The motive of the hastily organised sham referendums was clear to all: to create a pretext for their annexation by Moscow. While Russian troops were failing to maintain occupied areas militarily, the Russian leadership tried to cement its illegal occupation through a falsified and unlawful electoral process.

22. The process was marred by blatant intimidation tactics by Russian troops. Ukrainians have described armed soldiers going door to door to solicit votes, and even making people say their vote out loud for the soldiers to write down.[13] The legitimate governor of Luhansk, Serhiy Haidai, said Russian occupying forces organised armed groups to surround homes and force people to participate in the vote. According to reports, residents were threatened that they would lose their jobs if they did not participate and were even prohibited from leaving the city between 23 and 27 September.[14]

23. The broader context in which the vote took place cannot be ignored: all four regions were on the front line and witnessing heavy fighting. Only about 60% of Donetsk was under the control of Russian troops at the time of the so-called vote, and the capital of one of the four regions, Zaporizhzhia, was firmly in Ukrainian hands during the vote, making claims that the region chose to join Russia all the more absurd. Ivan Fedorov, the forcibly deposed Ukrainian mayor of Russian-occupied Melitopol, said that as voting started on 23 September, residents heard a loud explosion in the city centre and were afraid to leave their homes.[15]

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9. "Ukraine: More than 14,000 casualties to date but 'actual numbers are likely considerably higher'", *UN News*, 9 September 2022.
10. "Ukraine: Russian sham trials of prisoners of war in Mariupol 'illegal and unacceptable'", Amnesty International, 26 August 2022.
11. "Ukraine's Cultural Heritage Under Attack, Official Says", *Voa News*, 15 July 2022.
12. "Ukraine: over 150 cultural sites partially or totally destroyed", UNESCO, 23 June 2022.
13. "Ukraine 'referendums': Soldiers go door-to-door for votes in polls", *BBC News*, 23 September 2022.
14. www.corriere.it/esteri/diretta-live/22_settembre_23/ucraina-russia-news-guerra-7477471a-3aa2-11ed-b03d-1f9e636121b9.shtml.
15. "Voting begins in Russia's annexation plan for swathes of Ukraine", *Reuters*, 23 September 2022.

24. Ukrainian officials have also pointed out that the numbers for the referendum results released by the Russian-backed occupying officials do not make sense, given the number of people who have fled due to the armed conflict. The legitimate Luhansk governor, Serhiy Haidai, for example, wrote that voting numbers claimed by the Russian-backed authorities matched the number of people who had the right to vote in the region in 2012, before the mass displacement caused by the conflict that started in 2014 and by the subsequent full-scale invasion of earlier this year.[16]

25. To no one's surprise, the Russian-backed governments of the four regions announced resounding "victories", with support for annexation ranging from 84% to 99.2%.[17] On 30 September 2022, President Putin announced the annexation by the Russian Federation of the four Ukrainian regions at a Kremlin event, full of nationalistic fervour and aggressive rhetoric towards "the West", claiming the inhabitants of the regions would be Russian citizens "forever". Adding to the farce, on 3 October the Kremlin spokesperson admitted that it was not yet clear which exact territory Russia had annexed.[18]

4.2. A violation of international law

26. The attempted annexation by Russia of Ukraine's Donetsk, Luhansk, Kherson and Zaporizhzhia regions, preceded by the so-called referendums held in these territories to justify the annexation, violates Ukraine's independence, sovereignty and territorial integrity. It constitutes a grave breach of international law, including the UN Charter (Article 2.4) and of the principles and commitments of the Helsinki Final Act and the Charter of Paris.

27. The annexation is also contrary to the principles contained in UN General Assembly Resolution 2625 (XXV) of 24 October 1970,[19] which includes the principle that "the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force" and that "no territorial acquisition resulting from the threat or use of force shall be recognized as legal". States have an obligation not to recognise as lawful such a situation and not to render aid or assistance in maintaining it. The principle of non-recognition has been applied in different contexts by the UN Security Council[20] and by the European Court of Human Rights with regard to several unrecognised *de facto* situations/entities.[21] Furthermore, under international humanitarian law, the Russian Federation, as an occupying power, has the obligation to respect Ukrainian law. Annexation of the occupied territory is forbidden and unlawful.

4.3. A violation of electoral law, standards and practice

28. The so-called referendums were in clear contradiction with international law and Ukrainian (constitutional) law.[22] In addition, they did not comply with the Venice Commission revised guidelines on referendums, according to which: "the use of referendums must comply with the legal system as a whole. In particular, referendums cannot be held if the Constitution or a statute in conformity with the Constitution does not provide for them (…)".[23]

29. A vote held under military presence, during an active armed conflict and in the absence of independent electoral observation lacks all the substantive and procedural guarantees for it to be validly expressed.

4.4. International reactions

30. Notwithstanding the Kremlin's narrative, its attempt at portraying a genuine electoral process, and the pompous nationalistic events that followed in Moscow, the referendums and the illegal annexations were condemned by the international community.

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16. "Zelenskiy vows to defend Ukrainians in occupied regions as 'referendum' results announced", *The Guardian*, 28 September 2022.
17. www.euronews.com/2022/09/27/occupied-areas-of-ukraine-vote-to-join-russia-in-referendums-branded-a-sham-by-the-west.
18. www.bbc.com/news/world-europe-63126156.
19. Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.
20. UNSC Resolutions 541 (1983) and 550 (1984).
21. *Güzelyurtlu and Others v. Cyprus and Turkey* (GC), 29 January 2019, paragraphs 157-158 and 250-251.
22. Articles 1 and 2 of the Ukrainian Constitution (sovereignty, territorial integrity and indivisibility).
23. CDL-AD(2022)015, Revised Code of Good Practice on Referendums, Guidelines on the holding of referendums, pp. 7-17.

31. The Chairperson of the Council of Europe's Committee of Ministers, Ireland's Minister for Foreign Affairs Simon Coveney, the President of the Parliamentary Assembly, Tiny Kox, and the Secretary General of the Council of Europe, Marija Pejčinović Burić, condemned the decision of the Russian Federation to illegally annex the territories, pointing out that the Council of Europe would continue to stand with the people and authorities of its member State Ukraine.[24]

32. The Secretary-General of the United Nations, António Guterres, said that a decision to annex the four Ukrainian regions "would have no legal value and deserves to be condemned," adding that it stood "against everything the international community is meant to stand for."[25]

33. The OSCE Chairman-in-Office, Polish Foreign Minister Zbigniew Rau, along with the OSCE Parliamentary Assembly President and OSCE Secretary General, issued a statement unanimously and categorically condemning the illegal annexation as well as the continued occupation of Crimea. The annexation "is unacceptable", and "eviscerates the principle of territorial integrity, which is at the core of the OSCE's founding principles and the international order". This action by the Russian Federation "which includes military mobilization and irresponsible nuclear threats, will only lead to greater escalation of the conflict," they added.[26] The Director of the OSCE Office for Democratic Institutions and Human Rights and the OSCE Representative on Freedom of the Media also issued a joint statement emphasising that, "in addition to having no validity under international law, such conduct further aggravates the already abysmal human rights situation".[27]

34. The heads of government of all EU member States issued a statement firmly rejecting and unequivocally condemning the illegal annexation, emphasising that they will never recognise it. This was followed by individual statements of condemnation by the presidents of the European Council, the European Parliament, and the European Commission.[28]

35. Furthermore, as a response to the illegal annexations, on 28 September the European Commission announced a new package of sanctions against Russia. The new set includes an expansion of individuals and entities targeted with sanctions, to include people involved in the occupation and illegal annexation of areas of Ukraine, involved in the Russian defence sector, and who spread disinformation about the war. The package also included sweeping new import bans on Russian products and an expansion of the list of products that cannot be exported to Russia anymore, specifically key technologies.[29]

36. The United Kingdom also announced new sanctions as a result of the referendums, targeting top Russian officials enforcing the illegal votes, the public relations agency involved in the referendum's promotion, oligarchs, and board executives from major State-owned banks.[30] President Joe Biden said the United States "will never recognize Ukrainian territory as anything other than part of Ukraine," calling the referendums "a false pretext to try to annex parts of Ukraine by force in flagrant violation of international law."[31]

37. Reacting to the referendums, the Chinese Foreign Ministry emphasised that "the sovereign and territorial integrity of all countries should be respected […] and the purposes and principles of the UN Charter should be abided by."[32] Türkiye voiced support for the territorial integrity of Ukraine and emphasised it would not recognise the results of the referendums, as did Kazakhstan.

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24. "Council of Europe leaders condemn the illegal annexation of occupied territories of Ukraine", Council of Europe, 30 September 2022.
25. "Secretary-General's remarks on Russian decision on annexation of Ukrainian territory" [as delivered], United Nations Secretary General, 29 September 2022.
26. "OSCE Chairman-in-Office Rau, Parliamentary Assembly President Cederfelt, OSCE Secretary General Schmid and OSCE PA Secretary General Montella condemn Russia's illegal annexation of Ukrainian territory", OSCE, 30 September 2022.
27. "Annexation of Ukrainian territories is illegal and a threat to human rights, say OSCE human rights Director and OSCE media freedom Representative", OSCE, 6 October 2022.
28. Statement by the Members of the European Council, European Council of the European Union, 30 September 2022.
29. Press statement by President von der Leyen on a new package of restrictive measures against Russia, European Commission, 28 September 2022.
30. "UK sanctions collaborators of Russia's illegal sham referendums", United Kingdom Foreign and Commonwealth Office, 26 September 2022.
31. Statement from President Biden on Russia's Sham Referenda in Ukraine, The White House, 23 September 2022.
32. "Referendum in Ukraine's 4 regions: China calls for 'respect to sovereignty'", *AA*, 27 September 2022.

4.5. Increased risk of escalation

38. In addition to being an illegal move and a further infringement of a neighbouring State's sovereignty, the so-called referendums might have another grave consequence: they could contribute to escalating the war even further, by allowing the Russian Government to claim that its territory is under attack from Western weapons supplied to Ukraine.

39. President Putin alluded to this threat already in the days leading up to the referendums, saying "we will certainly use all the means at our disposal" "when the territorial integrity of our country is threatened."[33] Dmitry Medvedev, Deputy Chairperson of the Russian Security Council, said on 22 October 2022 while discussing the referendums that "encroachment on Russian territory is a crime which allows you to use all the forces of self-defence."[34]

5. The nuclear threat

40. The Russian Federation's political leadership brandishes nuclear weapons as a threat in its public discourse. Already a few days into the current large-scale invasion, on 27 February 2022, President Putin put nuclear forces into "special combat readiness", ratcheting up tensions globally and irresponsibly escalating the conflict. Russia also conducted high-profile nuclear military drills.[35]

41. On 22 September 2022, while announcing the partial mobilisation, President Putin said that Russia had many different types of nuclear weapons, and that his claim that he would use them if Russia were threatened was not a bluff.

42. On 27 September, Dmitry Medvedev, Deputy Chairperson of the Russian Security Council, said Russia had the right to defend itself with nuclear weapons if it faced an act of aggression by Ukraine "that is dangerous for the very existence of our State."[36] This statement directly references one of the conditions in Russia's nuclear strike doctrine which would justify the use of nuclear weapons: "aggression against the Russian Federation with conventional weapons when the very existence of the State is threatened."[37]

43. The insistent recourse to this rhetoric coincides with the Russian Federation's attempt to annex swathes of Ukrainian territories. This, combined with President Putin's claims that "the West" is seeking to destroy Russia, may point to the intention to paint a situation which would justify the use of nuclear weapons in the eyes of Russian public opinion.

44. This is an extremely reckless narrative, which is incompatible with the responsibilities of a nuclear power holding a permanent seat in the United Nations Security Council. And while Russia also has tactical – as opposed to strategic – nuclear weapons at its disposal, it is important to note that the former have never been used in conflict before.[38] Given that modern conventional weapons have become just as effective in destroying targets on the battlefield, it is clear that the Russian leadership is trying to use the terror caused by the potential use of nuclear weapons to achieve its imperialistic objectives of territorial expansion.

45. In addition to being abhorrent and dangerous, such nuclear threats are in breach of international law. First, they violate Article 2.4 of the UN Charter on the threat or use of force against the territorial integrity of any State. Any such strike would also violate international humanitarian law, in particular the principles of distinction and of proportionality, by impacting civilians in a significant manner. These threats also violate Russia's own commitments and assurances towards Ukraine in the context of the latter's accession to the Treaty on the Non-Proliferation of Nuclear Weapons.

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33. www.theguardian.com/world/2022/sep/21/putin-announces-partial-mobilisation-in-russia-in-escalation-of-ukraine-war.
34. "Putin announces partial mobilisation and threatens nuclear retaliation in escalation of Ukraine war", *The Guardian*, 21 September 2022.
35. "'This Is Not a Bluff.' Putin Raises Specter of Nuclear Weapons Following Battlefield Losses", *Time*, 21 September 2022.
36. "Medvedev Raises Spectre of Russian Nuclear Strike on Ukraine" (usnews.com). See also, "Russia's Nuclear Threats Are All Putin Has Left" , The Atlantic.
37. "Voyennaya doktrina Rossiyskoy Federatsii", Военная доктрина Российской Федерации [Military doctrine of the Russian Federation]. scrf.gov.ru (in Russian).
38. "Ukraine war: Could Russia use tactical nuclear weapons?", *BBC News*, 25 September 2022.

46. While threatening the use of nuclear weapons, Russia obstructs multilateral co-operation in this field. On 26 August, Russia blocked the adoption of a substantive outcome document at the tenth Non-Proliferation Treaty Review Conference due to paragraphs referring to the nuclear power plant in Zaporizhzhia. The outcome document would have assessed implementation of the landmark treaty and identified actions to advance its core goals surrounding disarmament and non-proliferation.[39]

47. Another aspect of Russia's nuclear blackmail involves the illegal occupation of Europe's largest nuclear power plant, in Ukraine's Zaporizhzhia region. Following its August 2022 mission, the International Atomic Energy Agency (IAEA) said there was an "urgent need for interim measures to prevent a nuclear accident", including the "establishment of a nuclear safety and security protection zone".[40] The continued occupation and militarisation of a civilian nuclear plant continues to put at grave risk countless innocent people and the surrounding natural environment.

48. In a testament to the fragility of the situation, on 8 October 2022 the IAEA announced the power plant had lost its last remaining external power source and was relying on emergency diesel generators for the electricity it needed for reactor cooling and other essential safety and security functions.[41]

6. Opposition to the war and mounting repression in the Russian Federation

6.1. Crackdown on civil liberties

49. Since the beginning of the large-scale invasion of Ukraine in 2022, the Russian authorities have further strengthened the already vast legal panoply aimed at curtailing freedom of expression, assembly and association and silencing independent media. According to OVD-Info, over this period, parliament has adopted 16 new repressive laws or amendments to existing documents.[42] Amongst, them:

– in March 2022, new legislation established penalties of up to 15 years for criticising the Russian armed forces;

– in July 2022, the definition of a "foreign agent" in the relevant law was amended to include "anyone deemed to have fallen under influence";

– in August 2022, amendments were introduced to the law on undesirable organisations, with a view to expanding criminal liability for involvement with "undesirable organisations" beyond Russia's borders, including for making donations to such organisations.

50. Despite these draconian measures, anti-war demonstrations and protests have been breaking out across the Russian Federation. Scores of people have been arrested, amidst reports of police brutality and alleged cases of inhuman treatment and torture in detention. According to OVD-Info, in the first six months of the aggression there had been at least 16 437 detentions related to anti-war protests.[43] OVD-Info also reports that, in addition to detentions at rallies and after them, the authorities practice preventive detentions using a facial recognition system.

51. Amongst the most prominent public figures being persecuted for voicing criticism against the war is Vladimir Kara-Murza who, on 10 October 2022, was awarded the Václav Havel Prize. Having been detained since April 2022, he is currently being investigated for high treason and risks a 20-year prison sentence. The former mayor of Yekaterinburg, Yevgeny Roizman, has been fined and detained several times for discrediting the armed forces and may face criminal prosecution for a repeated offence. Ilya Yashin, opposition activist and former municipal deputy in Moscow, is detained for spreading false information about the Russian armed forces. By the end of August 2022, 74 additional "foreign agents" had been added to the register held by the Ministry of Justice and the total number of "undesirable organisations" amounted to 65.[44] As a result, several civil society organisations, such as Memorial International, have been closed down.

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39. "Non-Proliferation Treaty Review Conference Ends without Adopting Substantive Outcome Document Due to Opposition by One Member State", United Nations, 26 August 2022.
40. www.iaea.org/sites/default/files/22/09/ukraine-2ndsummaryreport_sept2022.pdf
41. "Ukraine's ZNPP Must Be Urgently Protected, IAEA's Grossi Says After Plant Loses All External Power Due to Shelling", International Atomic Energy Agency, 8 October 2022.
42. Summary of anti-war repressions. Six months of war | ОВД-Инфо (ovdinfo.org).
43. Ibid.
44. Ibid.

52. The authorities' effort to implement a "one-truth policy" has led not only to the closure of virtually all independent media outlets, but also to the blocking of internet websites and social media. Children's indoctrination around the war in schools is widespread practice, while artists expressing anti-war views are prevented from performing. The Group for Research on Anti-Russian Activities in the Sphere of Culture and Art (GRAD), set up by the Russian Duma, has been very active in asking for the resignation of prominent artists and personalities, and in seeking further investigation by the Federal Security Service.

53. The report of the OSCE Moscow Mechanism on Russia's Legal and Administrative Practice in light of its OSCE Human Dimension Commitments, published on 22 September 2022, provides a detailed description of this state of affairs, concluding that "the authorities' actions against civil society show that the ultimate goal is to create a monolithic society based on a certain pre-modern understanding of "Russian-ness". Those who oppose it are seen as nails sticking out of the wall; they must be hammered into the wall and disappear. The President's speeches about a "fifth column" and "insects to be spat out" reveal an attitude of deep-seated hatred. The main strategy of the Russian authorities is based on intimidation. Persecution is not hidden, but visible for all, especially when it is directed against public figures. The main aim seems to be to get people to give up or leave the country".[45]

54. Both abroad and domestically, the leadership of the Russian Federation has been pushing for an anti-European and anti-humanistic ideology of the "Russian world", based on ideas of national superiority and national hatred as well as discrimination on the ground of gender, sexual orientation and identity. This is a serious concern particularly because of how it might affect the younger generations in Russia.

55. Complementing this gloomy scenario is the fact that all justice institutions in Russia are subdued to the Kremlin, leaving the people of Russia without a real, credible recourse to justice and to the rule of law.

6.2. Mobilisation

56. Following weeks of military setbacks, on 21 September 2022 President Putin announced a partial mobilisation, the first since the Second World War, ostensibly due to what he described as the West's intention to "destroy Russia".[46] He claimed that only reservists with previous training would be called up to military service, and Defence Minister Shoigu later clarified that it would involve 300 000 Russians. The day prior to the mobilisation announcement, the Duma passed a law imposing penalties for refusing to fight, surrender and desertion, without any public debate or discussion.[47]

57. This consequential policy decision directly contradicted the narrative that President Putin himself had been pushing since the large-scale aggression against Ukraine started in February 2022, namely that Russia was merely conducting a "special military operation".

58. Notwithstanding President Putin's assurances that the partial mobilisation involved only those with previous training, the mobilisation decree itself has much broader terms, and the wide spectrum of people being called up by enlistment officers – including many who have not served in the forces or are beyond drafting age – have been called on to fight. This has caused much controversy across the country, leading Putin himself to publicly admit that the mobilisation had not gone smoothly and to claim that there had been "mistakes".

59. Tensions soon rose across the Russian Federation, with angry showdowns at draft centres that sometimes turned violent. A draft officer in Siberia was shot after giving a speech about the war in Ukraine, and a man set himself on fire in protest in a city south of Moscow. In cities across Russia, police dispersed peaceful demonstrations against the mobilisation and arrested over 2 000 protesters.

60. Of particular concern, the authorities have been disproportionately focusing its mobilisation on ethnic minority regions, impoverished areas, occupied territories and indigenous people. The mobilisation caused significant unrest in Dagestan, where protests in multiple cities led to clashes with police and shots being fired. Research from the BBC's Russian service showed that at least 301 soldiers from Dagestan had died in the war, more than from any other Russian region and more than ten times as many as from Moscow, which has a population five times higher.[48]

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45. "Report on Russia's Legal and Administrative Practice in Light of its OSCE Human Dimension Commitments", OSCE, 22 September 2022.
46. "Putin announces partial mobilisation and threatens nuclear retaliation in escalation of Ukraine war", *The Guardian,* 21 September 2022.
47. "'Thrown into the meat grinder': Russians react to mobilisation", *Aljazeera*, 21 September 2022.
48. "Ukraine war: Protests in Russia's Dagestan region against new draft", *BBC News*, 26 September 2022.

61. Another element of concern is the Kremlin's policy to send detained persons from prisons across Russia to fight in Ukraine.

62. According to human rights monitoring groups, Crimean Tatars have also been receiving high numbers of draft notices since the announcement of the partial mobilisation.[49] In addition to being a violation of the Geneva Conventions, which prohibit an occupying power from compelling occupied populations to serve in its armed forces,[50] the targeting of the Turkish Muslim minority group raises questions as regards the real aims of mobilisation. This is of particular concern given the practice of "passportisation" applied by the occupying Russian authorities in Crimea since 2014, already examined by the Assembly, which compelled residents of Crimea, including Crimean Tatars, to adopt Russian citizenship in order not to be treated as foreigners or not to be deported.[51]

63. Amidst these worrying developments, President Zelenskyy has called on Ukrainians in occupied territories to dodge the draft, or if they are not able to, to avoid fighting fellow Ukrainians and instead sabotage Russian operations.

64. The partial mobilisation announced by President Putin ignited a massive exodus of Russian men who attempted to flee the country to avoid a potential callup. Reports estimate hundreds of thousands had done so already by the first week of October, with some Russian media claiming upwards of 700 000.[52]

65. European governments have reacted differently to the possibility of welcoming Russian deserters. Germany indicated that Russians fleeing the mobilisation would be able to apply for asylum, in line with international law, and France said that while it would be selective and evaluate a person's situation and security risk, it would ensure that those who needed to could still come to the country.

66. Finland, which shares a 1 300-kilometre border with Russia, indicated it will significantly restrict entry to Russians, with political figures there calling the fleeing reservists an obvious security risk. Estonia, Latvia, Lithuania and Poland have also started to restrict entry for Russian citizens traveling with tourist visas. Lithuania's Foreign Minister, Gabrielius Landsbergis, tweeted that "Russians should stay and fight against Putin," and his Latvian counterpart Edgars Rinkēvičs argued that those fleeing now cannot be considered conscientious objectors since they did not act when Russia started this latest aggression in February.[53]

67. European Commissioner for Home Affairs Ylva Johansson on 30 September 2022 urged member States to beef up border staff and tighten security checks, saying countries should assess whether to let in Russians trying to enter Europe on a "case-by-case" basis.[54]

7. Multilateralism and global security concerns

68. The UN Security Council, the guardian of international peace and security, by its own design is incapacitated to act when one of its permanent members uses its veto right. It is the case this time, when Europe is experiencing the largest war and threat to its overall security since the creation of the United Nations in 1945. In fact, the threat goes well beyond the European continent.

69. On 30 September 2022, notwithstanding 10 votes in favour, a draft resolution proposed by the United States and Albania condemning the illegal "referendums" and attempted annexation of four Ukrainian regions as a threat to international peace and security was defeated with the sole opposition of the Russian Federation. Even if the text was rejected, the voting result showed the isolation of Russia, with Brazil, China, Gabon and India abstaining.

70. Following the vote, Ukraine's Ambassador to the United Nations described the Security Council as a "broken pillar" of the United Nations.[55] On several occasions, Ukraine has mentioned Russia's legitimacy to sit in the UNSC as the successor State of the Soviet Union. Calls for a reform of the UNSC are gaining

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49. "'A kind of murder': Putin's draft targets Crimea's Tatars", *Politico*, 4 October 2022.
50. Article 51 of the IV Geneva Convention. Customary IHL – Rule 95. Forced Labour (icrc.org).
51. Doc. 15305, "The situation of Crimean Tatars", paragraphs 52-53. See also SG/Inf(2022)15, "Human rights situation in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine", 4 May 2022, paragraph 69.
52. "Factbox: Where have Russians been fleeing to since mobilisation began?", *Reuters*, 6 October 2022.
53. "EU divided on response to Russians fleeing military service", *PBS News Hour*, 25 September 2022.
54. "EU urges stricter border control as Russians flee the war", *Politico*, 30 September 2022.
55. "Security Council Fails to Adopt Resolution Condemning Moscow's Referenda in Ukraine's Occupied Territories, as Permanent Member Employs Veto", *ReliefWeb*, 1st October 2022.

support. As President Zelenskyy has said, “a State that is implementing a policy of genocide right now, keeping the world one step away from a radiation disaster, and at the same time threatening nuclear strikes cannot remain a permanent member of the UN Security Council with veto power.”[56]

71. In this context of stalemate in the Security Council, the relevance and authority of the UN General Assembly increases substantially. The Emergency Special Session dedicated to the Russian aggression against Ukraine, initially convened in February 2022, reopened on 10 October with a debate in which numerous governments from around the world clearly and loudly stated that illegal annexations of territories are contrary to what the United Nations stands for and will never be recognised.

72. Previously, on 7 April 2022, the UN General Assembly had adopted a resolution suspending Russia's membership in the UN Human Rights Council over the "grave concern at the ongoing human rights and humanitarian crisis in Ukraine.”[57]

73. Furthermore, on 21 September 2022, President Zelenskyy used his speech at the 77th session of the UN General Assembly to present the Ukrainian peace formula, anchored on five key points: punishing aggression, protecting life, restoring security and territorial integrity, guaranteeing security, and highlighting the importance of determination. He also called on the international community to recognise Russia as a State sponsor of terrorism.[58]

74. The Russian aggression against Ukraine should be analysed also from the point of view of its broader geopolitical repercussions. Russia and China have taken steps to solidify their partnership, jointly promoting, particularly after a February 2022 meeting between the two presidents, a rhetoric of a “new era” in international affairs in which the two authoritarian States share a friendship with “no limits”. The tones were milder in the margins of the Shanghai Cooperation Organisation (SCO) Summit in Samarkand in early September 2022 but while reiterating its support for the principle of territorial integrity, China has consistently refrained from open criticism of Russia.

75. Some countries have supported the Russian Federation in UN General Assembly votes to condemn the aggression and to expel Russia from the UN Human Rights Council. These countries, which include Belarus, China, Cuba, Iran and Syria, should be condemned. Some of these counties have been engaged in disinformation campaigns in Africa, Asia and Latin America that help the Russian Federation.

76. While war is ravaging Ukraine, Asia has become the theatre of rising tensions. A confrontational display of diplomatic and military might around the issue of Taiwan came to the forefront. North Korea fired ballistic missiles on seven occasions over two weeks in October 2022, including one which flew over Japan, while South Korea and the United States conducted joint naval drills. In September Iran joined the SCO, with Putin noting that relations between Russia and Iran were “developing positively”.[59]

77. In Europe, the Russian Federation is trying to strengthen its influence in the Western Balkans. In September, on the sidelines of the UN General Assembly, the foreign ministers of Serbia and Russia signed an agreement on relations between the two ministries. Several members of the European Parliament denounced the deal, even calling for suspension of the EU accession talks with Serbia, and Serbian Foreign Minister Nikola Selaković subsequently downplayed the importance of the deal, claiming it to be technical and not relating to security matters.[60]

78. In the hard security sphere, the war of aggression has led to the further enlargement of NATO to Finland and Sweden. Ukraine has applied to be admitted to NATO with an accelerated procedure. NATO military forces in Europe remain on high alert. The apparent sabotage of a gas pipeline connecting Russia to Europe in early October 2022 was yet another demonstration of the multifaceted security threats that characterise the current geopolitical environment.

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56. Speech by President Volodymyr Zelenskyy at the meeting of the UN Security Council convened at the initiative of Ukraine, 27 September 2022.
57. Suspension of the rights of membership of the Russian Federation in the Human Rights Council: resolution adopted by the General Assembly, 7 April 2022.
58. “Ukrainian President outlines peace formula that punishes aggression, restores security”, *UN News*, 21 September 2022.
59. “Iran signs memorandum to join Shanghai Cooperation Organisation”, *Aljazeera*, 15 September 2022.
60. “Serbian foreign minister plays down deal with Lavrov after flak from Brussels”, *Euronews*, 25 September 2022.

79. One of the most alarming consequences of the war has been food insecurity, both in Ukraine and around the world. The ongoing aggression poses a major problem for countries dependent on imports from Russia and Ukraine, both important producers of wheat and fertilisers. It endangers food security for millions of people worldwide, especially in low-income countries.

80. On 22 July 2022, with the facilitation of Türkiye and the United Nations, Russian and Ukrainian representatives reached an agreement on the export of grain, related food items, and fertilizers, covering Ukraine's Odessa, Yuzhny, and Chernomorsk ports. The deal has already allowed the export of millions of tonnes of wheat. The Russian Federation has however been hesitant to appoint more inspectors to meet the growing volume of exports, thereby causing a backlog at ports, and in early September President Putin had threatened to revisit the agreement due to what he described as inappropriate destinations for the exports.

81. In addition to several countries' humanitarian, operational and military support to Ukraine, the international community has continued its strong support for the country's recovery. At the Ukraine Recovery Conference in Lugano, Switzerland, heads of government and ministers representing 41 countries from across the globe agreed to a common framework for the political process of Ukraine's reconstruction and to a set of principles to serve as benchmarks for the future.[61]

82. The Committee of Ministers of the Council of Europe adopted in May 2022 the adjusted Action Plan for Ukraine, in order to provide the most adequate and helpful short- and medium-term support to the country.

83. The transatlantic unity in favour of Ukraine is to be noted and commended. Europe should be especially grateful for the United States' strong military and economic support to Ukraine.

8. Accountability of the Russian Federation

84. It is of the utmost importance that the Russian Federation and its leadership are held accountable for the crimes it is committing on European soil, against a neighbouring sovereign State and its citizens, and in violation of international law. This issue should be looked at in a comprehensive manner, with a view to avoiding impunity while respecting the remit and responsibilities of different jurisdictions.

85. Amongst other recommendations, the Assembly has called on member and observer States of the Council of Europe to set up an *ad hoc* international criminal tribunal to investigate and prosecute the crime of aggression committed by the political and military leadership of the Russian Federation.[62] This proposal is in line with the initiative launched by Ukraine and recently reiterated by President Zelenskyy when addressing the UN General Assembly. If the fourth Summit of the Council of Europe member States Heads of State and Government should give its unequivocal political support to this initiative, this gesture would have a strong political significance.

86. International jurisdictions currently working on Ukraine include:

– the Prosecutor of the International Criminal Court, who has opened an investigation on present allegations of war crimes, crimes against humanity or genocide committed on any part of the territory of Ukraine by any person from 21 November 2013 onwards;

– on the basis of an application filed by Ukraine, the International Court of Justice, which is looking into the interpretation, application and fulfilment of the 1948 Convention or United Nations Genocide Convention. The application aims at showing that claims that Ukraine is responsible for genocide in the Luhansk and Donetsk regions are unfounded and establishing that the Russian Federation thus has no lawful basis to take military action based on those false claims.

87. In the area of human rights, six months after its expulsion from the Council of Europe, the Russian Federation ceased to be party to the European Convention on Human Rights on 16 September 2022. The European Court of Human Rights remains competent to deal with applications against Russia concerning actions or omissions occurring up until 16 September 2022. Amongst them is the inter-state case *Ukraine v. Russia (X)* (No. 11055/22) lodged by Ukraine and concerning allegations of mass and gross human rights violations committed by the Russian Federation on the territory of Ukraine since 24 February 2022. It is also to be welcomed, as a sign of support for Ukraine but also to the Convention system as a whole for holding Russia accountable, that 23 Council of Europe member States have requested leave to intervene as third parties in these proceedings.[63]

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61. www.urc2022.com/.
62. Resolution 2436 (2022) and Recommendation 2231 (2022) "The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes".

88. Within the UN system, an Independent International Commission of Inquiry was set up by the Human Rights Council on 3-4 March 2022 to investigate alleged violations of human rights in the context of the Russian Federation's aggression against Ukraine. In addition, as already mentioned, on 8 October 2022 the Human Rights Council set up the mandate of a Special Rapporteur on human rights in Russia.

89. The Council of Europe should be in the front line to support Ukrainian prosecutors and any hybrid courts (with national and international judges) which may be established to investigate and prosecute such serious international crimes. The setting up of a register of the damage caused by the Russian aggression should also be supported and the Russian Federation should be held accountable for compensating the damage it has inflicted.

9. Conclusions

90. The Russian Federation's unprovoked, unjustified and unjustifiable aggression against Ukraine is a tragedy of immense proportions. It is causing enormous pain, human suffering and material devastation in Ukraine. It is the largest war in Europe since the Second World War. Through its global repercussions as regards military, energy and food security, it poses a serious threat to international peace and global governance.

91. As the aggression continues, reaching new levels of violence and destruction, the Russian regime confirms its real terrorist nature, through its reckless and hateful narrative and spiteful contempt of the most basic human rights and rules of international law.

92. Council of Europe member States should condemn the latest further escalation in the Russian Federation's aggression. They should not recognise any effect of the sham "referendums" organised by the Russian Federation as a pretext to try to annex swathes of Ukrainian territories in violation of international law. They should step up their support to Ukraine by all available means, supporting its right to defend itself and contributing to its reconstruction.

93. In this critical moment, Council of Europe member States should stand by their principles and values and spare no efforts to ensure that the Russian Federation is held accountable, legally and politically, for this aggression and all the suffering and damage it is provoking.

94. The Assembly has already adopted a number of texts on the Russian Federation's aggression against Ukraine, which I have listed in the Appendix to the present report and whose recommendations should be fully reiterated. These texts reflect the conscience of Europe. It is of the utmost importance that the Heads of State and Government of Council of Europe member States, united in a fourth Summit, endorse the Assembly's proposals, reaffirming not only their commitment to democracy, human rights and the rule of law, but also to the independence, sovereignty and territorial integrity of Ukraine and to avoid impunity for the Russian Federation.

63. Ukraine v. Russia (X) (Application No. 11055/22).

Appendix – Reference documents

A. Parliamentary Assembly

Humanitarian consequences and internal and external displacement in connection with the aggression of the Russian Federation against Ukraine (Rapporteur: Mr Pierre-Alain Fridez, Switzerland, SOC) Adopted text: Resolution 2448 (2022)

Reported cases of political prisoners in the Russian Federation (Rapporteur: Ms Thórhildur Sunna Ævarsdóttir Iceland SOC) Adopted texts: Resolution 2446 (2022) and Recommendation 2236 (2022).

Protection and alternative care for unaccompanied and separated migrant and refugee children (Rapporteur: Ms Mariia Mezentseva Ukraine, EPP/CD) Adopted text: Resolution 2449 (2022)

Recent challenges to security in Europe: what role for the Council of Europe? (Rapporteur: Mr Bogdan Klich, Poland, EPP/CD). Adopted texts: Resolution 2444 (2022) and Recommendation 2235 (2022)

The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes (Rapporteur: Mr Aleksander Pociej, Poland, EPP/CD). Adopted texts: Resolution 2436 (2022) and Recommendation 2231 (2022)

Consequences of the Russian Federation's continued aggression against Ukraine: role and response of the Council of Europe (Rapporteur: Mr Frank Schwabe, Germany, SOC). Adopted texts: Resolution 2433 (2022) and Recommendation 2228 (2022)

Consequences of the Russian Federation's aggression against Ukraine (Rapporteur: Ms Ingjerd Schou. Norway, EPP/CD). Adopted text: Opinion 300 (2022)

Ad hoc sub-committee of the Committee on Legal Affairs and Human Rights on carrying out a fact-finding visit to Ukraine for the purpose of gathering information on possible war crimes and crimes against humanity committed during the war of aggression launched by the Russian Federation against Ukraine

B. Committee of Ministers

"The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes" – Parliamentary Assembly Recommendation 2231 (2022) (Reply adopted by the Committee of Ministers on 5 October 2022 at the 1445th meeting of the Ministers' Deputies) CM/AS(2022)Rec2231-final

"Consequences of the Russian Federation's continued aggression against Ukraine: role and response of the Council of Europe" – Parliamentary Assembly Recommendation 2228 (2022), CM/Del/Dec(2022)1444/2.5

Consequences of the aggression of the Russian Federation against Ukraine – Accountability for international crime, CM/Del/Dec(2022)1442/2.3

132nd Session of the Committee of Ministers (Turin, Italy, 20 May 2022) – United around our values – Council of Europe response to the aggression of the Russian Federation against Ukraine, CM/Del/Dec(2022)132/2

Consequences of the aggression of the Russian Federation against Ukraine, CM/Del/Dec(2022)1431/2.3

Consequences of the aggression of the Russian Federation against Ukraine, CM/Del/Dec(2022)1429bis/2.3

Consequences of the aggression of the Russian Federation against Ukraine, CM/Del/Dec(2022)1428ter/2.3

Consequences of the aggression of the Russian Federation against Ukraine, CM/Del/Dec(2022)1428bis/2.3

Consequences of the aggression of the Russian Federation against Ukraine, CM/Del/Dec(2022)1427bis/2.3

Situation in Ukraine – Continuation of the procedure under Article 8 of the Statute, CM/Del/Dec(2022)1427/2.5

Situation in Ukraine – Measures to be taken, including under Article 8 of the Statute of the Council of Europe, CM/Del/Dec(2022)1426ter/2.3

Situation in Ukraine, CM/Del/Dec(2022)1426bis/2.3

"Humanitarian consequences of the war in Ukraine" – Parliamentary Assembly Recommendation 2119 (2018) CM/Del/Dec(2018)1316/3.4

132nd Session] Priority adjustments to the Council of Europe Action Plan for Ukraine 2018-2022, CM(2022)89-final

Council of Europe Action Plan for Ukraine 2018-2021, GR-DEM(2017)18-final