

**Committee: Legal (GA6)**

**Issue: Application of universal jurisdiction for war crimes in Ukraine**

**Student Officer: Rigopoulou Konstantina**

**Position: Deputy President**

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## **PERSONAL INTRODUCTION**

Dear delegates,

My name is Konstantina Rigopoulou, I am a senior student in Leonteios School of Athens and I have the utmost honor to serve as a Deputy President of the Legal Committee (GA6) in the 9<sup>th</sup> ATSMUN.

Having participated in more than 14 conferences, I can undoubtedly say that the MUN world is one of a kind. For people like me who have always had a flair for politics and international affairs, MUN gives exactly this, in addition to the opportunity of searching, bringing up applications and solutions to the world's most pressing issues. Additionally, MUN helps enhance social skills, improve public speaking and fosters a friendly environment where participants can form (meaningful) connections and socialize.

This study guide aims to facilitate your research by raising awareness on this topic, its key terms and background information. By all means, you should utilize information you deem useful in this study guide, however, you ought to conduct your own research, so as to be able to defend your country's policy and be active throughout the debate. On that note, during your preparation you are encouraged to refrain from using sources such as Wikipedia/newspapers of a certain block etc. and focus on more reliable ones. Should you have any questions, concerns, need for clarification on the topic, do not hesitate to contact me at: [kwnstantinarg@gmail.com](mailto:kwnstantinarg@gmail.com)

Kind regards,

Konstantina Rigopoulou

## INTRODUCTION

Ukraine was the mainspring of the Soviet Union since 1922 and one of the most essential of the Soviet republics, the main source of the union's agriculture, defense and military. After years of torment and torture of Ukrainians, massively caused by Soviet leader Stalin and later on with the collapse of the Soviet Union in 1991, Ukraine became an independent nation. Many years later, in 2014, the Crimean Peninsula was annexed by Russia, followed shortly after by a separatist uprising in the eastern Ukrainian region of Donbas that resulted in the declaration of the Russian-backed People's Republics of Luhansk and Donetsk.



**Figure 1: Protests in Kyiv in 2014<sup>1</sup>**

Russia's seizure of Crimea was the first time since World War II that a European state annexed the territory of another. More than fourteen thousand people died in the fighting in the Donbas between 2014 and 2021, the bloodiest conflict in Europe since the Balkan wars.

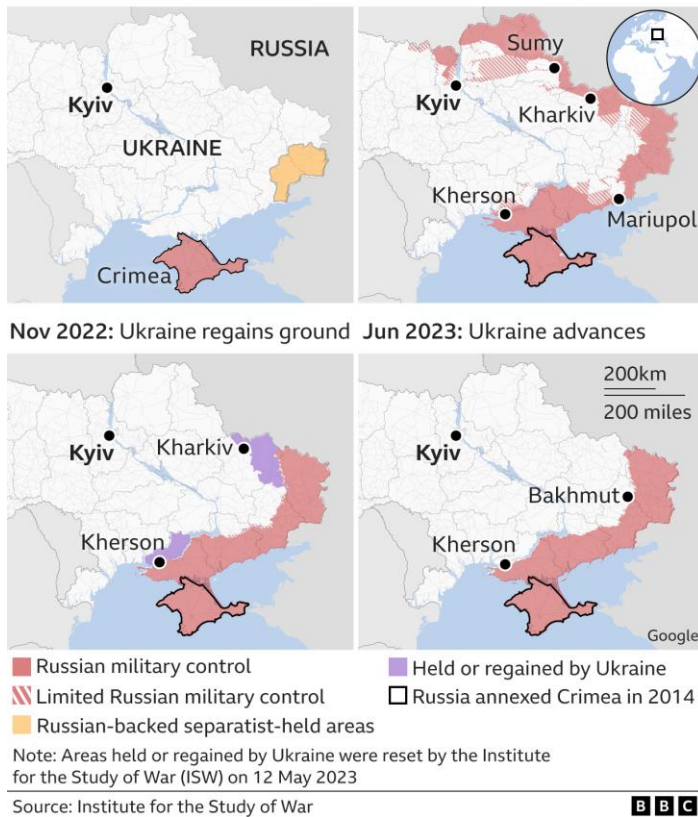
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<sup>1</sup> [Nyt.com, 2023, static01.nyt.com/images/2022/03/26/multimedia/26ukraine-blog-timeline-topart/26ukraine-blog-timeline-topart-jumbo.jpg?quality=75&auto=webp](https://static01.nyt.com/images/2022/03/26/multimedia/26ukraine-blog-timeline-topart/26ukraine-blog-timeline-topart-jumbo.jpg?quality=75&auto=webp), accessed 29 July 2023.

## How military control of Ukraine has changed

Feb 2022: Before the invasion

Mar 2022: Russia's rapid advance



**Figure 2: Ukraine in maps: Tracking the war with Russia <sup>2</sup>**

Last year, on the 24<sup>th</sup> of February, Russia broke forth an illegal and unjustified act of war against Ukraine. Since then, Russian forces have performed a plethora of war acts such as but not limited to abductions, executions, torture and attacks. All the above can be perpetrated as crimes against humanity and acts of war under International Law and the Geneva Convention which defines rules of war. To these acts, European States such as Estonia, Germany, Latvia, and Lithuania responded by invoking the law principle of Universal jurisdiction, so as to start investigations regarding Russian invasion of Ukraine. This principle can complete some voids of the Russian-Ukrainian war puzzle, since generally, universal jurisdiction is invoked when other,

<sup>2</sup> Team, By Visual Journalism. "Ukraine in Maps: Tracking the War with Russia." *BBC News*, 23 June 2023, [www.bbc.com/news/world-europe-60506682](http://www.bbc.com/news/world-europe-60506682).

traditional bases of criminal jurisdiction are not available, for example: “the defendant is not a national of the State, the defendant did not commit a crime in that State’s territory or against its nationals, or the State’s own national interests are not adversely affected.”<sup>3</sup> Said principle is highly important since it helps battle impunity and restores justice for victims of international crimes.

However, this puzzle cannot be completed as a whole, given that numerous questions and loopholes arise that will concern our debate. For instance, whether the accused should be present in the state or not, so as for said principle to be rightfully invoked. Also, whether this principle is rightfully invoked in Ukraine’s case.

That is to say, the fight against crime is not just a state’s task, on the contrary, it concerns the international community as a whole. Hence, to the question of the application of universal jurisdiction for war crimes in Ukraine, not only Ukraine but also all member-States have to tackle this issue. After all, when impunity from international crimes is not prevented, the law and order of all states are being threatened.

## DEFINITION OF KEY TERMS

### Principle of universal jurisdiction

A legal principle recognized by the Geneva conventions that defines rules of war. It is invoked by foreign states so as to bring criminal proceedings against alleged perpetrators of international crimes, even if the crimes were committed abroad and even if the victims do not reside in the country in question. It allows national courts in third countries to address international crimes occurring abroad, hold perpetrators criminally liable, and prevent impunity.<sup>4</sup>

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<sup>3</sup> International Justice Resource Center. “Universal Jurisdiction | International Justice Resource Center.” [ijrcenter.org](https://www.ijrcenter.org), 2012, [ijrcenter.org/cases-before-national-courts/domestic-exercise-of-universal-jurisdiction/](https://www.ijrcenter.org/cases-before-national-courts/domestic-exercise-of-universal-jurisdiction/)

<sup>4</sup> “Universal Jurisdiction.” [www.ecchr.eu](https://www.ecchr.eu), [www.ecchr.eu/en/glossary/universal-jurisdiction](https://www.ecchr.eu/en/glossary/universal-jurisdiction) Accessed 3 Aug. 2023

## Rome Statute

The first treaty-based permanent international criminal court, established on 17 July 1998, is the Rome Statute of the ICC. Among other things, it sets out the crimes falling within the jurisdiction of the ICC, the rules of procedure and the mechanisms for States to cooperate with the ICC. The countries that have accepted these rules are known as States Parties and are represented in the Assembly of States Parties. The Assembly of States Parties, which meets at least once a year, and during these meetings the States Parties review the activities of the working groups established by the States and any other issues relevant to the ICC. Over 120 countries are States Parties to the Rome Statute, representing all regions: Africa, the Asia-Pacific, Eastern Europe, Latin America and the Caribbean, as well as Western Europe and North America.<sup>5</sup> Generally, a State not party to the Statute may decide to accept the jurisdiction of the ICC.

## Arrest Warrant

An arrest warrant is a document issued by a judge that gives authority to the police to take the accused into custody. An arrest warrant is issued by the competent upon showing of probable cause.<sup>6</sup> In other words, a warrant may be issued if a reasonable person would believe the information at hand is sufficient to suggest criminal activities. Arrest warrants serve the purpose of protecting people from unlawful arrests.

## Rules of War

Certain fundamental rules from which no derogation is permitted. They are defined by the Geneva Conventions of 1949 and shall be followed by member states involved in wars. For instance: "It requires humane treatment for all persons in enemy hands, without discrimination. It specifically prohibits murder, mutilation, torture, the taking of hostages, unfair trial, and cruel,

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<sup>5</sup> understanding-the-icc.pdf, page 10, <https://www.icc-cpi.int/sites/default/files/Publications/understanding-the-icc.pdf>

<sup>6</sup> Cornell Law School. "Arrest Warrant." LII / Legal Information Institute, [www.law.cornell.edu/wex/arrest\\_warrant](http://www.law.cornell.edu/wex/arrest_warrant)

humiliating and degrading treatment.”<sup>7</sup> Generally, civilians shall not be attacked, the impact of warfare shall be limited on women, children and elderly, detainees shall be treated humanely and no one shall be tortured.

### **Jurisdiction**

The authority and power given by law to a court to determine a dispute between parties, try cases and rule on legal matters over certain types of legal cases.<sup>8</sup>

### **Ad-Hoc**

This phrase means “for this purpose only.” Common examples are an ad hoc committee or an ad hoc court created for a specific or one-time purpose to address issues that fall outside the scope of other existing committees or commissions.<sup>9</sup>

### **War crimes**

Every violation of the rules of war is considered a war crime. They must always take place in the context of an armed conflict, either international or non-international. A war crime occurs when superfluous injury or unnecessary suffering is inflicted upon an enemy. Some examples of prohibited acts include: murder, mutilation, cruel treatment and torture, taking of hostages, intentionally directing attacks against the civilian population, intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments or hospitals.<sup>10</sup> Generally, an action will be considered a war crime if the extent of harm (casualties etc.) is excessive compared to the military advantage gained from the action.

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<sup>7</sup> “Geneva Conventions and Their Additional Protocols.” LII / Legal Information Institute, [www.law.cornell.edu/wex/geneva\\_conventions\\_and\\_their\\_additional\\_protocols#:~:text=It%20specifically%20prohibits%20murder%2C%20mutilation,the%20parties%20to%20the%20conflict](http://www.law.cornell.edu/wex/geneva_conventions_and_their_additional_protocols#:~:text=It%20specifically%20prohibits%20murder%2C%20mutilation,the%20parties%20to%20the%20conflict)

<sup>8</sup> Chapter 2. [www.shsu.edu/~klett/Chapter%202%20BL281%20Judicial%20Review%20new.htm#:~:text=Jurisdiction%20is%20the%20authority%20of,legislature%2C%20executive\)%20are%20constitutional](http://www.shsu.edu/~klett/Chapter%202%20BL281%20Judicial%20Review%20new.htm#:~:text=Jurisdiction%20is%20the%20authority%20of,legislature%2C%20executive)%20are%20constitutional).

<sup>9</sup> “Ad Hoc.” LII / Legal Information Institute, [www.law.cornell.edu/wex/ad\\_hoc#:~:text=This%20phrases%20mean%20%E2%80%9Cfor%20this,other%20existing%20committees%20or%20commissions](http://www.law.cornell.edu/wex/ad_hoc#:~:text=This%20phrases%20mean%20%E2%80%9Cfor%20this,other%20existing%20committees%20or%20commissions).

<sup>10</sup> IHL, 16 July 2023, <https://ihl-databases.icrc.org/fr/customary-ihl/v2/rule156>

## BACKGROUND INFORMATION

### USSR/Russo-Ukrainian war

After overthrowing the centuries-old monarchy, Russia emerged from a civil war in 1921 as the newly formed Soviet Union or else the world's first Marxist-Communist state, firstly led by Marxist revolutionary Vladimir Lenin. It became one of the biggest and most powerful nations in the world, occupying nearly one-sixth of Earth's land surface: Soviet Union or else Union of Soviet Socialist Republics (U.S.S.R.) extended from the Baltic and Black seas to the Pacific Ocean and, in its final years, consisted of 15 Soviet Socialist Republics (S.S.R.'s): Armenia, Azerbaijan, Belorussia (now Belarus), Estonia, Georgia, Kazakhstan, Kirgizija (now Kyrgyzstan), Latvia, Lithuania, Moldavia (now Moldova), Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.<sup>11</sup>

During the period of its existence, the Union of Soviet Socialist Republics was by area the world's largest country. The majority of its population consisted of Russians, Ukrainians, and Belarusians. These groups together made up more than two-thirds of the total population. As far as Ukraine was concerned, it was the second-most-populous and powerful of the fifteen Soviet republics, behind only Russia. Also, it was home to much of the union's agricultural production, defense industries and military, including the Black Sea Fleet and some of the nuclear arsenal.

Georgian-born revolutionary Joseph Stalin rose to power upon Lenin's death in 1924 and during his reign (1924-1953) he transformed the Soviet Union into an industrial and military superpower.<sup>12</sup> Especially, Stalin enforced the collectivization of the agricultural sector. Rural peasants were forced to join collective farms and those that owned land or livestock were stripped of their holdings.<sup>13</sup> The Communists believed that transforming individually owned farms into a plethora of large state-run collective farms would increase agricultural productivity.

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<sup>11</sup> Dewdney, John C, and Martin McCauley. "Soviet Union | History, Leaders, Map, & Facts." Encyclopædia Britannica, 20 Dec. 2018, [www.britannica.com/place/Soviet-Union](http://www.britannica.com/place/Soviet-Union)

<sup>12</sup> History.com Editors. "Soviet Union." HISTORY, A&E Television Networks, 1 Sept. 2017, [www.history.com/topics/european-history/history-of-the-soviet-union](http://www.history.com/topics/european-history/history-of-the-soviet-union)

<sup>13</sup> HISTORY, 1 Sept. 2017, [www.history.com/topics/european-history/history-of-the-soviet-union](http://www.history.com/topics/european-history/history-of-the-soviet-union)

Be that as it may, given the resistance to collectivization in the countryside, agricultural productivity dropped, leading to devastating food shortages, and resulting in the Great Purge (Famine), where millions died, especially Ukrainians and Stalin's opponents. The Ukrainian famine, known as the Holodomor, by one estimate claimed the lives of 3.9 million people, about 13 percent of the population.<sup>14</sup>

Evidently, Ukraine played such a significant part to the union, hence, after the years of torment and torture of Ukrainians (Great Famine), its decision to become independent and sever ties in 1991, proved to be a coup de grâce for the ailing superpower. Its decision for independence was a move endorsed in a referendum by 92 percent of voters. Thus, after the coup, numerous reforms and conflicts arose within the parliament of the USSR, and by 1991, the Soviet Union ceased to exist. Then, Ukraine began to take part in the market economy and came into possession of a significant stockpile of nuclear weapons that had belonged to the Soviet Union, slowly building today's status.

In between the years 2013-2014, Ukraine's ties with the EU brought tensions with Russia. In late 2013, Ukraine's President Yanukovich, acting under pressure from his supporters in Moscow, scrapped plans to formalize a closer economic relationship with the EU. Russia had at the same time been pressing Ukraine to join the EAEU (Eurasian Economic Union). Many Ukrainians perceived Yanukovich's decision as a betrayal by a deeply corrupt and incompetent government, igniting countrywide protests. The aforementioned provoked Putin and after a series of retaliations between him and Yanukovich, he ordered the invasion and annexation of Crimea in 2014.

Putin employed a similar narrative to justify his support for separatists in southeastern Ukraine, another region home to large numbers of ethnic Russians and Russian speakers. He famously referred to the area as Novorossiia (New Russia), a term dating back to eighteenth-

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<sup>14</sup> History.com Editors. "Soviet Union." HISTORY, A&E Television Networks, 1 Sept. 2017, [www.history.com/topics/european-history/history-of-the-soviet-union](http://www.history.com/topics/european-history/history-of-the-soviet-union)



century imperial Russia. Armed Russian provocateurs, including some agents of Russian security services, are believed to have played a central role in stirring the anti-Euromaidan secessionist movements in the region into a rebellion. However, unlike Crimea, Russia continued to officially deny its involvement in the Donbas conflict until it launched its wider invasion of Ukraine in 2022.



**Figure 3: Children collect frozen potatoes in a collective farm's field during the Ukrainian famine<sup>15</sup>**

To Moscow's surprise and frustration, however, the Crimea playbook had limited success in other parts of the country.

Only in Donetsk and Luhansk did pro-Russian demonstrators manage to gain control of the local administration and launch an insurgency. By the summer of 2014, the Ukrainian military was on the verge of surrounding the separatist forces in the self-proclaimed Donetsk and Luhansk "people's republics" (DNR and LNR), cutting them off from supply lines, linking them to Russia and leaving them vulnerable to annihilation. Though a more pragmatic approach regarding Russia and the conflict in Donbas came into light, perceptions of Russian intransigence and bad faith led Ukrainian president Zelensky to adopt a harder line on the matter, while also starting to chip away at the pillars of Russian influence. Among others, he ordered the closing of pro-Russian television networks and pushed to reform the security services, aiming to root out the Russian

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<sup>15</sup> "How Joseph Stalin Starved Millions in the Ukrainian Famine." *HISTORY*, 16 Apr. 2019, [www.history.com/news/ukrainian-famine-stalin](http://www.history.com/news/ukrainian-famine-stalin)

sympathizers who proved integral to the takeover of Crimea and have subsequently interfered with investigations into Russian influence. Last year, on the 24<sup>th</sup> of February, Russia broke forth with an act of war against Ukraine. Since then, both sides have performed a plethora of war acts such as but not limited to abductions, executions, torture and attacks.

### **Cases where Universal Jurisdiction was applied**

#### **Germany v. Myanmar: war crimes before and after the coup**

A few days before the second anniversary of the ‘failed coup’ in Myanmar, on the 20th January of 2023, a case was filed in Germany against senior Myanmar military generals and ‘other actors’ identified in the complaint for genocide, war crimes, and crimes against humanity. It was filed under universal jurisdiction enshrined in the German Code of Crimes against International Law by the Thailand-based Non-Governmental Organization (NGO) “Fortify Rights” and 16 victims, including ten Rohingya ‘genocide survivors’ and six civilians belonging to other ethnic groups.<sup>16</sup> The complaint requests the German Federal Prosecutor to open a structural investigation on allegations of crimes committed against the Rohingya people between 2016 and 2017 and against other civilians since the coup of February 1st 2021 and is the first-ever to address the full range of allegations to date.<sup>17</sup>

#### **The case of Adolfo Scilingo: a liberating move for Argentineans**

In early November 2007, the Spanish Supreme Court's Criminal released its judgment, the conviction of former Argentine naval officer Adolfo Scilingo for his involvement in murders and illegal detentions in Argentina. Scilingo was convicted by

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<sup>16</sup> Fortify rights. “Criminal Complaint Filed in Germany against Myanmar Generals for Atrocity Crimes.” Fortify Rights, 24 Jan. 2023, [www.fortifyrights.org/mya-inv-2023-01-24/](http://www.fortifyrights.org/mya-inv-2023-01-24/)

<sup>17</sup> “New Universal Jurisdiction Case Filed in Germany for Crimes Committed in Myanmar Before and After the Coup: On Complementarity, Effectiveness, and New Hopes for Old Crimes.” *EJIL: Talk!*, 11 Mar. 2023, [www.ejiltalk.org/new-universal-jurisdiction-case-filed-in-germany-for-crimes-committed-in-myanmar-before-and-after-the-coup-on-complementarity-effectiveness-and-new-hopes-for-old-crimes](http://www.ejiltalk.org/new-universal-jurisdiction-case-filed-in-germany-for-crimes-committed-in-myanmar-before-and-after-the-coup-on-complementarity-effectiveness-and-new-hopes-for-old-crimes)

Spain's special court for serious international crimes. The Supreme Court concluded that Scilingo's crimes amounted to crimes against humanity under international law. This decision represents the first by an appellate court in Spain following a full trial under universal jurisdiction principles, and one of the few cases to have completed trial and appeal in domestic courts for international crimes committed in a third country.

The Court overturned the Audiencia's conviction of Scilingo on charges of torture, genocide and terrorism. He was found guilty of 30 killings, one arbitrary detention and 225 other arbitrary detentions as an accomplice.

In the highly formalistic civil law tradition of Spain, it is quite extraordinary for the Supreme Court to find criminal responsibility for crimes against humanity in customary international law without a previously defined provision for that offense in the criminal code of Spain. No offense of crimes against humanity was on the books in Spain, either at the time of the offenses in question or the time of commencement of proceedings. Nevertheless, the Supreme Court upheld the conviction as consistent with the principle of legality. Further, as a corollary to Scilingo's criminal responsibility, the court reached out to impose a sentence for crimes against humanity without any legislative guidance as to the parameters for such a sentence. This decision, which adopts the reasoning of the lower courts on crimes against humanity, has encouraged further criminal prosecutions in Argentina for crimes against humanity. Finally, the decision constitutes an acceptance by the Supreme Court, however grudging, of the Spanish Constitutional Court's earlier expansion of Spain's approach to universal jurisdiction.

### **Creation and significance of universal jurisdiction**

The principle of Universal Jurisdiction was originally recognized by 1949 Geneva Conventions. United States courts had used the concept of Universal Jurisdiction way before, since the 19th century, to justify the regulation of piracy on the high sea and to hold slave traders

accountable for their crimes.<sup>18</sup> It was codified for torture in the 1984 Torture Convention.<sup>19</sup> Nowadays, the principle of universal jurisdiction concerns all who commit the most serious human rights violations and is very significant for the international community.

Firstly, Universal Jurisdiction brings justice to victims of international crimes. Courts in the “territorial state” are often inaccessible for victims for a variety of reasons, including the availability of domestic immunities or self-imposed amnesties, especially when the crimes were state-sponsored. For instance, a domestic amnesty law in Chile protected former dictator Augusto Pinochet and other government officials in Chile. Nevertheless, it was not able to cease proceedings filed against him in Spain using the doctrine of universal jurisdiction by victims who managed to escape his dictatorship.

Secondly, as it is already mentioned, it battles impunity. While in some cases victims may obtain justice through international tribunals and courts or the ICC, these courts are constrained by a mandate that is limited to specific territories, conflicts, or time periods. Examples are the two ad-hoc tribunals for Yugoslavia and Rwanda or the Special Court for Sierra Leone. Additionally, neither the ICC nor the international courts and tribunals have sufficient resources to investigate or prosecute all alleged perpetrators, meaning that a number of human rights violators may fall through the legal cracks-loopholes. Similarly, the preamble of the Rome Statute of the ICC expressly provides that it “is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes” and emphasizes that “the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions.”<sup>20</sup>

Historically, universal jurisdiction was essential in establishing accountability in several post-World War II trials following the International Military Tribunal at Nuremberg and in 1961,

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<sup>18</sup> Universal Jurisdiction – CJA. [cja.org/what-we-do/litigation/legal-strategy/universal-jurisdiction/](http://cja.org/what-we-do/litigation/legal-strategy/universal-jurisdiction/).

<sup>19</sup> “Factsheet: Universal Jurisdiction.” Center for Constitutional Rights, [www.ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction](http://www.ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction)

<sup>20</sup> Factsheet: Universal Jurisdiction.” Center for Constitutional Rights, [ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction](http://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction)

it enabled Israel to prosecute a senior Nazi official, Adolf Eichmann, for his role in the Holocaust during World War I. Notably, the obligation on states to seek out and prosecute those said to be responsible for grave "breaches" of international humanitarian law is a key aspect of the four Geneva Conventions of 1949.

## **MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED**

### **Russia**

Once the preeminent republic of the Union of Soviet Socialist Republics (U.S.S.R.), Russia became an independent country after the dissolution of the Soviet Union in December 1991. It became one of the largest countries in the world as it occupies one-tenth of all the land on Earth. It sought for years on end to prevent Ukraine's drift toward the United States and its allies, hence, when Ukraine decided to join NATO for geo-political reasons, Russia aggressed with acts of war against Ukraine. Consequently, an arrest warrant was issued by ICC for its president Vladimir Putin for war crimes, performed in Ukraine by the Russian army. Notably, even though Russia was a signatory to the Rome statute, it withdrew in 2016 saying it did not recognize the jurisdiction of the ICC. That being said, in countries non-signatories of the Rome Statute, ICC's jurisdiction is not recognized, thus, the Russian president cannot be tried in these countries and the arrest warrant is not in force there.

### **Ukraine**

The mainspring of the Soviet Union meant Ukraine becoming independent in December 1991, after the USSR's dissolution and the torment from the Big Famine. In ongoing conflict with neighboring nation Russia for years on end. After its decision to join NATO, it got invaded by Russia on 24th February 2022 and has been at war ever since. A plethora of war crimes have been executed here: Russian armed forces have been detaining, abducting, kidnapping, targeting and killing journalists, mayors and human rights defenders (journalists and media workers are protected under international humanitarian law); looting of civilian property including food, clothing, household appliances, firewood and a large amount of grain, as well as in the battering

of civilian infrastructures including those catering to the needs of vulnerable social groups, residential buildings, schools, nurseries and hospitals.<sup>21</sup>

It is worth-mentioning that Ukraine is not a State Party to the Rome Statute, but has twice exercised its prerogatives to accept the ICC's jurisdiction over alleged crimes under the Rome Statute occurring on its territory, pursuant article 12 of the same statute. Additionally, Ukraine does not possess necessary courts and legislation to try war crimes. Hence, other nations invoked the principle of universal jurisdiction, so as to try them in their national courts.

### **United States (US)**

A country in North America, a federal republic of 50 states, governed by its president George Biden. It is claimed that they are standing with Ukraine at the frontline of justice. Administration officials have obtained evidence of "alleged" Russian war crimes in Ukraine, through intelligence gathering mechanisms, even though they are debating upon showing them to the tribunal. They have also deployed teams of international investigators and prosecutors to assist Ukraine's Office of the Prosecutor General in documenting, preserving and preparing war crimes cases for prosecution, and the Department of Justice has entered into a Memorandum of Understanding to cooperate with Ukraine on investigations and prosecutions of war crimes committed during Russia's invasion of Ukraine.<sup>22</sup>

### **European Union (EU)**

The EU pledged to investigate war crimes committed by Russian proxies on Ukrainian soil, given that these kinds of crimes pose a threat to the international community as a whole. In order to proceed to investigations, the European Union member states appealed the principle of universal jurisdiction. The Union promised to provide 20 million euros to assist the ICC as well as

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<sup>21</sup> "Lex - 32022R0720 - En - EUR-Lex." *EUR*, page 3,  
<https://eurlex.europa.eu/legalcontent/EN/TXT/?uri=CELEX%3A32022R0720>

<sup>22</sup> Hansler, Natasha Bertrand,Jennifer. "Biden to Allow US to Share Evidence of Russian War Crimes with International Criminal Court | CNN Politics." CNN, 26 July 2023, [edition.cnn.com/2023/07/26/politics/biden-russia-war-crimes-international-criminal-court-hague/index.html](https://edition.cnn.com/2023/07/26/politics/biden-russia-war-crimes-international-criminal-court-hague/index.html),Accessed 30 July 2023

to support the prosecutor general's office in Ukraine and efforts by the United Nations to investigate war crimes

### **International Criminal Court (ICC)**

The ICC investigates and tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.<sup>23</sup> As a court of last resort, it seeks to complement, not replace, national Courts and is governed by the Rome Statute. The Assembly of States Parties is the Court's management oversight and legislative body, and is composed of representatives of the States that have ratified or acceded to the Rome Statute. Lastly, ICC is the world's first permanent international criminal court and on 17th of March 2023 an arrest warrant for Putin was issued.

### **North Atlantic Treaty Organization (NATO)**

NATO was founded in 1949 as a shield against Soviet aggression.<sup>24</sup> It is an intergovernmental military alliance between 31 member states, 29 European and two North American, and provides a security guarantee that an attack on one of them is an attack on all of them. NATO condemned Russia's war of aggression against Ukraine, a close NATO partner. Thus, NATO and allies continued to provide Ukraine with support. Through NATO, allies have already pledged 500 million euros to meet Ukraine's critical needs, including fuel, demining equipment and medical supplies.<sup>25</sup>

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<sup>23</sup> International Criminal Court. 19 July 2023, [www.icc-cpi.int](http://www.icc-cpi.int).

<sup>24</sup> Masters, Jonathan. "An Unsettled Alliance." Council on Foreign Relations, 4 May 2022, [www.cfr.org/background/what-nato](http://www.cfr.org/background/what-nato)

<sup>25</sup> NATO. "NATO's Response to Russia's Attack on Ukraine." NATO, 4 Apr. 2023, [www.nato.int/cps/en/natohq/topics\\_192648.htm](http://www.nato.int/cps/en/natohq/topics_192648.htm)

## TIMELINE OF EVENTS

Date	Description of Event
December 30th 1922	Creation of Soviet Union
January 21 <sup>st</sup> 1924	Lenin's death
1932-1933	The Great Purge-Famine /Holodomor, Stalin's tactic so as to take away Ukrainians and opponents. Millions died.
December 1991	Dissolution of Soviet Union
December 1st 1991	Ukrainian independence
April 3rd 2008	Russia Fights Ukrainian NATO Membership
November 2013 to February 2014	Euromaidan Protests Prompt Sudden Change in Government
February 2014 to March 2014	Annexation of Crimean Peninsula
February 24th 2022	Russian invasion in Ukraine
January 20th 2023	Complaints are issued in Germany against Myanmar military generals, under universal jurisdiction



March 17th 2023	An arrest warrant was issued for Russian president V. Putin by ICC
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## PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

### The creation of a war crimes department at the Office of the Prosecutor General in Ukraine.

The Office of the Prosecutor General, together with Ukrainian and international partners, had created a war crime department as well as a platform so as to properly document war crimes and crimes against humanity committed by the Russian military in Ukraine. Any evidence that was collected could be used to bring to justice those guilty of the most serious international crimes, both in Ukrainian courts and in the International Criminal Court in The Hague and in a special tribunal. Nevertheless, at the moment, Ukraine does not possess the necessary facilities and domestic legislature so as to have a tribunal in its national courts; hence, this attempt is deemed inadequate on its own if not be accompanied by reforms in domestic legislature and other attempts.

### UNSC resolution, vetoed by Russia.

A draft resolution described the so-called referendums held by Russia in the four regions of Ukraine, which Moscow now regards as sovereign territory, Luhansk, Donetsk, Kherson, and Zaporizhzhya, as an illegal attempt to modify Ukraine's internationally recognized borders, circulated by the United States and Albania. It was supported by ten of the fifteen members of the Council, while four members abstained (Brazil, China, Gabon and India). It called on all States, international organizations and agencies not to recognize the Russian annexation declaration and called on Russia to "immediately, completely and unconditionally withdraw all of its military forces" from Ukrainian territory. Russia vetoed said draft.

## POSSIBLE SOLUTIONS

### Adopting according legislation

The principle of universal jurisdiction is the mainspring of the attempts to battle crimes by Russian proxies and impunity in general. In order to be effectively implemented, all States that aim to put an end to the aforementioned, ought to adopt the legislative framework that allows to try the alleged perpetrators of core international crimes and fight impunity. This framework shall abide by the rules of war defined by Geneva conventions, condemn and try its perpetrators in its national courts irrespective of their nationality. Meanwhile, they are also advised to become parties of the Rome Statute so as to recognize ICC's jurisdiction since, when a State becomes a party to the Rome Statute, it agrees to submit itself to the jurisdiction of the ICC with respect to the crimes enumerated in the Statute.

### **Establishing war crime units**

Aside from the adoption of appropriate legislation, states should also have sufficient resources so as to prosecute the alleged perpetrators and fight these international crimes. Therefore, the resources needed are the police and prosecutorial bodies-crime units. These crime units will contribute to the certainty of the systematic referral of potential serious crime cases to the relevant criminal justice authorities.<sup>26</sup>

### **Turning to criminal cooperation mechanisms**

Member states of the European Union need to avail themselves of judicial criminal cooperation mechanisms such as EUROPOL and Genocide Network, which will provide practical, legal and financial support to joint investigation teams, enhancing the possibility of successful prosecutions. Especially, due to European Arrest Warrants (EAW), suspects stepping into any EU member's territory will be subject to a simplified surrender procedure, and crimes within the ICC's jurisdiction do not even require dual criminality. The latter is a law principle which stipulates that for someone to be extradited, their alleged conduct has to be a criminal offence in both the

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<sup>26</sup> karolina-aksamitowska "Universal Jurisdiction in Ukraine: States Should Commit to Using Their Own Courts to Address Russian Atrocities." *Justice in Conflict*, 14 Oct. 2022, page 5, part 2. <https://www.asser.nl/media/795205/karolina-aksamitowska-war-crimes-units-legislative-organisational-and-technical-lessons-eng.pdf>

surrendering and the requesting state by the penalty of imprisonment or other form of detention.<sup>27</sup>

## FURTHER READING

### Articles

- <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>
- <https://impakter.com/ukraine-war-testimonials-from-the-frontline-the-fight-of-ukrainian-students/>
- <https://www.nytimes.com/2022/03/20/world/europe/ukraine-women-escape-stories.html>
- <https://foreignpolicy.com/2023/02/24/ukraine-russia-putin-war-crimes-bucha-kherson/>

### Video

- <https://www.youtube.com/watch?v=PSFjGXKS59Q>
- [https://www.youtube.com/watch?v=\\_9SxmWjaqlA](https://www.youtube.com/watch?v=_9SxmWjaqlA)

### Photographs

- [https://static01.nyt.com/images/2022/03/17/world/17ukraine-voices-lead/merlin\\_203345493\\_d203048b-f113-4bfb-923c-2fdc172bcb39-articleLarge.jpg?quality=75&auto=webp&disable=upscale](https://static01.nyt.com/images/2022/03/17/world/17ukraine-voices-lead/merlin_203345493_d203048b-f113-4bfb-923c-2fdc172bcb39-articleLarge.jpg?quality=75&auto=webp&disable=upscale)

## BIBLIOGRAPHY

“About the Court.” *International Criminal Court*, [www.icc-cpi.int/about/the-court](http://www.icc-cpi.int/about/the-court)

Conant, Eve. “Russia and Ukraine: The Tangled History That Connects—and Divides—them.”

“Dual Criminality Definition.” Law Insider, [www.lawinsider.com/dictionary/dual-criminality](http://www.lawinsider.com/dictionary/dual-criminality)

Accessed 3 August 2023.

*History*, 24 Feb. 2023, [www.nationalgeographic.com/history/article/russia-and-ukraine-the-tangled-history-that-connects-and-divides-them](http://www.nationalgeographic.com/history/article/russia-and-ukraine-the-tangled-history-that-connects-and-divides-them)

Cornell Law School. “Arrest Warrant.” LII / Legal Information Institute, [www.law.cornell.edu/wex/arrest\\_warrant](http://www.law.cornell.edu/wex/arrest_warrant)

---

<sup>27</sup> “Dual Criminality Definition.” Law Insider, [www.lawinsider.com/dictionary/dual-criminality](http://www.lawinsider.com/dictionary/dual-criminality). Accessed 3 Aug. 2023

EJIL: Talk!, 11 Mar. 2023, [www.ejiltalk.org/new-universal-jurisdiction-case-filed-in-germany-for-crimes-committed-in-myanmar-before-and-after-the-coup-on-complementarity-effectiveness-and-new-hopes-for-old-crimes](http://www.ejiltalk.org/new-universal-jurisdiction-case-filed-in-germany-for-crimes-committed-in-myanmar-before-and-after-the-coup-on-complementarity-effectiveness-and-new-hopes-for-old-crimes)

“Factsheet: Universal Jurisdiction.” Center for Constitutional Rights, [www.ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction](http://www.ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction)

Fortifyrights, “Criminal Complaint Filed in Germany Against Myanmar Generals for Atrocity Crimes - Fortify Rights.” Fortify Rights, 2 Feb. 2023, [www.fortifyrights.org/mya-inv-2023-01-24](http://www.fortifyrights.org/mya-inv-2023-01-24)

“Geneva Conventions and Their Additional Protocols.” LII/Legal Information Institute, [www.law.cornell.edu/wex/geneva\\_conventions\\_and\\_their\\_additional\\_protocols#:~:text=It%20specifically%20prohibits%20murder%2C%20mutilation,the%20parties%20to%20the%20conflict](http://www.law.cornell.edu/wex/geneva_conventions_and_their_additional_protocols#:~:text=It%20specifically%20prohibits%20murder%2C%20mutilation,the%20parties%20to%20the%20conflict)

Hansler, Natasha Bertrand, Jennifer. “Biden to Allow US to Share Evidence of Russian War Crimes with International Criminal Court | CNN Politics.” CNN, 26 July 2023, [www.edition.cnn.com/2023/07/26/politics/biden-russia-war-crimes-international-criminal-court-hague/index.html](http://www.edition.cnn.com/2023/07/26/politics/biden-russia-war-crimes-international-criminal-court-hague/index.html), accessed 30 July 2023

*HISTORY*, 1 Sept. 2017, [www.history.com/topics/european-history/history-of-the-soviet-union](http://www.history.com/topics/european-history/history-of-the-soviet-union)

Hassler, Warren W, and Reed C Rollins. “United States | History, Map, Flag, & Population.” Encyclopædia Britannica, 3 Feb. 2019, [www.britannica.com/place/United-States](http://www.britannica.com/place/United-States)

*IHL*, 16 July 2023, <https://ihl-databases.icrc.org/fr/customary-ihl/v2/rule156>

International Committee of the Red Cross. “Frequently Asked Questions on the Rules of War.” International Committee of the Red Cross, 7 Mar. 2022, [www.icrc.org/en/document/ihl-rules-of-war-faq-geneva-conventions](http://www.icrc.org/en/document/ihl-rules-of-war-faq-geneva-conventions)

International Committee of Red Cross, “The principles of universal jurisdiction and complementarity ,page 3,2006, [https://www.icrc.org/en/doc/assets/files/other/irrc\\_862\\_philippe.pdf](https://www.icrc.org/en/doc/assets/files/other/irrc_862_philippe.pdf)

karolina- aksamitowska “Universal Jurisdiction in Ukraine: States Should Commit to Using Their Own Courts to Address Russian Atrocities.” *Justice in Conflict*, 14 Oct. 2022, pages 5-

<https://www.asser.nl/media/795205/karolina-aksamitowska-war-crimes-units-legislative-organisational-and-technical-lessons-eng.pdf>

Kersten, View All Posts by Mark. “Universal Jurisdiction in Ukraine: States Should Commit to Using Their Own Courts to Address Russian Atrocities.” *Justice in Conflict*, 14 Oct. 2022,

<https://justiceinconflict.org/2022/10/17/universal-jurisdiction-in-ukraine-states-should-commit-to-using-their-own-courts-to-address-russian-atrocities/>

“Legal Dictionary - Law.com.” *Law.com* *Legal Dictionary*, <https://dictionary.law.com/default.aspx?selected=1070>

“Lex - 32022R0720 - En - EUR-Lex.” *EUR*, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R0720>, accessed 28 July 2023.

Masters, Jonathan. “An Unsettled Alliance.” *Council on Foreign Relations*, 4 May 2022, [www.cfr.org/backgrounder/what-nato](http://www.cfr.org/backgrounder/what-nato).

Masters, Jonathan. “Ukraine: Conflict at the Crossroads of Europe and Russia.” *Council on Foreign Relations*, 14 Feb. 2023, [www.cfr.org/backgrounder/ukraine-conflict-crossroads-europe-and-russia](http://www.cfr.org/backgrounder/ukraine-conflict-crossroads-europe-and-russia)

McCauley, Martin, et al. “Soviet Union | History, Leaders, Flag, Map, and Anthem.” *Encyclopedia Britannica*, 29 June 2023, [www.britannica.com/place/Soviet-Union](http://www.britannica.com/place/Soviet-Union)

NATO. “NATO’s Response to Russia’s Attack on Ukraine.” NATO, 4 Apr. 2023, [www.nato.int/cps/en/natohq/topics\\_192648.htm](http://www.nato.int/cps/en/natohq/topics_192648.htm)

“New Universal Jurisdiction Case Filed in Germany for Crimes Committed in Myanmar Before and After the Coup: On Complementarity, Effectiveness, and New Hopes for Old Crimes.” *EJIL: Talk!*, 11 Mar. 2023, [www.ejiltalk.org/new-universal-jurisdiction-case-filed-in-germany-for-crimes-committed-in-myanmar-before-and-after-the-coup-on-complementarity-effectiveness-and-new-hopes-for-old-crimes](http://www.ejiltalk.org/new-universal-jurisdiction-case-filed-in-germany-for-crimes-committed-in-myanmar-before-and-after-the-coup-on-complementarity-effectiveness-and-new-hopes-for-old-crimes)

Riasanovsky, Nicholas V., et al. “Russia | History, Flag, Population, Map, President, and Facts.” *Encyclopedia Britannica*, 19 July 2023, [www.britannica.com/place/Russia](http://www.britannica.com/place/Russia)

“Soviet Union - Countries, Cold War and Collapse | HISTORY.” HISTORY, 1 Sept. 2017, [www.history.com/topics/european-history/history-of-the-soviet-union](http://www.history.com/topics/european-history/history-of-the-soviet-union).

“Universal Criminal Jurisdiction in Ukraine.” *Institute for War and Peace Reporting*, iwpr.net/global-voices/universal-criminal-jurisdiction-ukraine,2022, <https://iwpr.net/global-voices/universal-criminal-jurisdiction-ukraine>

United Nations. “Russia Vetoes Security Council Resolution Condemning Attempted Annexation of Ukraine Regions.” UN News, 30 Sept. 2022, [www.news.un.org/en/story/2022/09/1129102](http://www.news.un.org/en/story/2022/09/1129102)

United Nations. United Nations Office on Genocide Prevention and the Responsibility to Protect. [www.un.org/en/genocideprevention/war-crimes.shtml](http://www.un.org/en/genocideprevention/war-crimes.shtml)

Universal Jurisdiction.” Center for Constitutional Rights, [www.ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction](http://www.ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/factsheet-universal-jurisdiction)

Universal Jurisdiction – CJA. [www.cja.org/what-we-do/litigation/legal-strategy/universal-jurisdiction/](http://www.cja.org/what-we-do/litigation/legal-strategy/universal-jurisdiction/)

“Universal Jurisdiction.” ECCHR, 28 June 2023, [www.ecchr.eu/en/glossary/universal-jurisdiction](http://www.ecchr.eu/en/glossary/universal-jurisdiction)

“Universal Jurisdiction - TRIAL International.” *TRIAL International*, 15 July 2020, trialinternational.org/topics-post/universal-jurisdiction. <https://trialinternational.org/topics-post/universal-jurisdiction/>

“Universal Jurisdiction.” ECCHR, 28 June 2023, [www.ecchr.eu/en/glossary/universal-jurisdiction](http://www.ecchr.eu/en/glossary/universal-jurisdiction)

Universal Jurisdiction in Ukraine: States Should Commit to Using Their Own Courts to Address Russian Atrocities.” *Justice in Conflict*, 14 Oct. 2022, <https://justiceinconflict.org/2022/10/17/universal-jurisdiction-in-ukraine-states-should-commit-to-using-their-own-courts-to-address-russian-atrocities>

Published by a LexisNexis Dispute Resolution expert. *Jurisdiction*. [www.lexisnexis.co.uk/legal/glossary/jurisdiction](http://www.lexisnexis.co.uk/legal/glossary/jurisdiction)

Swart, Mia. “Explainer: What Is a War Crime?” Humanitarian Crises News | Al Jazeera, 23 Oct. 2019, [www.aljazeera.com/news/2019/10/23/explainer-what-is-a-war-crime](http://www.aljazeera.com/news/2019/10/23/explainer-what-is-a-war-crime)

“Warcrimes.” [www.warcrimes.gov.ua](http://www.warcrimes.gov.ua), accessed 30 July 2023.

## MULTIMEDIA BIBLIOGRAPHY

Protests in Kyiv's main square in 2014 were a violent flash point in relations between Ukraine and Russia (Sergey Ponomarev for The New York Times)

<https://static01.nyt.com/images/2022/03/26/multimedia/26ukraine-blog-timeline-topart/26ukraine-blog-timeline-topart-jumbo.jpg?quality=75&auto=webp>

Team, By Visual Journalism. "Ukraine in Maps: Tracking the War with Russia." *BBC News*, 23 June 2023, [www.bbc.com/news/world-europe-60506682](https://www.bbc.com/news/world-europe-60506682).