# DEFINITION AND IMPLICATIONS OF AGGRESSION IN INTERNATIONAL LAW

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**Abstract**

*The military invasion by the Russian Federation in Ukraine does not leave any space for nuances as it is a violation of an essential principle of International Law, namely the prohibition of the use of force. This basic rule is enshrined in Article 2 para 4 of the Charter of the United Nations and it constitutes one of its main objectives, as well. However, the Charter does not provide a definition of the act of aggression, which was given in 1974 by the General Assembly in its Resolution no. 3314 and served as an inspiration source in defining the crime of aggression by the Kampala Amendments to the Rome Statute of the International Criminal Court. The aim of this paper is to analyse the elements of aggression as an internationally wrongful act which trigger the international responsibility of a State and to draw distinctions from the elements of the crime of aggression which trigger the individual responsibility.*

*Keywords:* prohibition of the use of force, international responsibility, international jurisdiction

## Introduction

Russian military invasion in Ukraine in February 2022 was unexpected for the general public and shocked the international community as it undoubtedly constitutes an act contrary to the actual system of fundamental principles of International Law to the establishment of which the contribution of the Russian nation, a permanent member of the Security Council since 1945, cannot be denied. The core values of the United Nations are enshrined in its Charter (United Nations, 1945a) which established a mechanism of collective security based on its provisions that are legally binding for the Member States.

The cornerstone of this system is represented by the prohibition of the use of force which is in strong connection with the principles of sovereignty, territorial integrity and inviolability of frontiers.

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Committing acts of aggression constitutes a serious violation of International Law and of the prohibition of the use of force, a violation of the obligation to respect this principle and a cause for the international responsibility that may be established against the state and/or against the individuals. However, we should bear in mind that these are different types of responsibility: the international responsibility for wrongful acts applicable for States and international criminal responsibility for individuals. We must also consider the specific requirements established by general international law and international criminal law for each of them. Although at first, things appear simple, in reality the mechanisms for the both types of liability are very complex and difficult to comply with due, to the specific requirements and the special features of each mechanism.

## 1. Prohibition of the use of force as an essential principle of International Law

The principle of non-aggression or prohibition of the use of force is essential for the current international legal order and its enshrinement is the result of the evolution of interstate relations and the approach change regarding the legitimacy and legality of the ways of solving disagreements between States. War and the use of military force have been constant elements of the relations between States for a long time in human history, and their use was allowed (Moldovan, 2019). At present, based on international regulations, use of military force has been excluded from the admissible ways of conducting international relations and may be considered justified in a very few cases, restrictively provided by the Charter of the United Nations, namely self-defense, people`s right to self-determination, measures adopted by the Security Council of the United Nations (Moldovan, 2019, p. 106).

The express consecration of non-aggression is closely linked to the interwar period. The Covenant of the League of Nations adopted in 1919 (League of Nations, 1920) enshrined the principle of non-use of force or threat of force, which led to a limitation of States in starting wars (*jus ad bellum*) and using this method legitimately to resolve misunderstandings between them. This was followed by the Briand Kellogg Pact (League of Nations, 1929), adopted in 1928, which enshrined the prohibition of war of aggression (Moldovan, 2019, p. 99). These international instruments have proved ineffective due to the outbreak of World War II.

The Charter of the United Nations stipulates the principle of prohibition of the use of force in Article 2 para. 4, according to which:

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

The reason for the express provision of this principle in 1945 is related to the goal of achieving international peace, mentioned in the Preamble of the Charter, of the

United Nations for which the States agreed, once again, to limit their prerogatives related to their sovereignty, in the form of an obligation to refrain from using force in relations with other each other and as a means of settling any misunderstandings (Cassese, 2005, p. 55).

Despite the express consecration in the Charter of the United Nations, which represents a true "constitution" of the international community using imperative wording, since its adoption there have been over 100 major armed conflicts and the loss of over 20 million lives (Gray, 2014, p. 618).

The reading of the text may be subject to two possible interpretations: on the one hand, it can be considered that the prohibition of the use of force is concerning interstate conflicts (Gray, 2014, p. 618) given the use of the expression *in their relations* although, after the Second World War, civil conflicts were more numerous than those between States (Gray 2014, p. 620), and on the other hand, that it represents a general rule establishing *jus contra bellum* (Decaux , de Frouville, 2016, p. 457).

The Charter of the United Nations aims to unilaterally prohibit the use of force by States, pursuant to Article 2 para 4, as well as establishing a centralized control over its use, exercised by the UN Security Council, pursuant to Chapter VII of the Charter (Dupuy, Kerbrat, 2016; Gray, 2014, 619). The intention of the drafters of the Charter was to refer to the type of misuse of armed force that characterized international diplomacy and relations between States in the first part of the twentieth -century.

The terms *use of force* and *threat of use of force* are not defined by the Charter of the United Nations, which is the reason why there are still debates concerning the content and meaning of the notion *force* and whether its interpretation should be narrow (including only the use of armed force) or broad (including economic, political or other coercion against a State, taking into consideration the development and evolution of the international legal order). The difference between the two interpretations is more symbolic than practical, as economic coercion has been expressly prohibited by General Assembly resolutions, such as the 1970 Declaration of the Principles of International Law (C. Gray, 2014, 621).

The debates are also fueled by the inconsistency of the Charter in the use of the term *force.* Thus, the Preamble (para 6) and Articles 41 and 46, are using the term *armed force*, while Article 2 para 4 and Article 44 use the term *force* (Rosenne, 2002, p. 156).

The inclusion of the term *force* in the Charter, without providing a definition or elements on the basis of which a particular situation can be included in the scope of this notion was deliberate, in order to avoid the emergence of new situations similar to those before World War II and to qualify them by using other terms (such as *incident, union, protectorate*), in the context of deteriorating diplomatic relations, which do not make direct reference to the use of armed force or war, and to avoid the use of the term *war* (Rosenne, 2002, p. 156).

The principle of the prohibition of the use of force has been a continuing concern of the General Assembly of the United Nations. Thus, it has adopted several

resolutions on the use of force in order to clarify and interpret the provisions of the Charter. With regard to those adopted by unanimous vote, they are considered to be either Customary International Law or to have the value of a formal interpretation of the provisions of the Charter (Gray, 2014, p. 619).

These resolutions include: *the Declaration of the Principles of International Law of 1970* (General Assembly, 1970), *the Resolution on the Definition of Aggression of 1974 (*General Assembly, 1974), *the 1987 Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations* (General Assembly, 1987).

The war of aggression is, according to the 1970 Declaration, a crime against peace, for which international responsibility can be established (General Assembly, 1970).

The 1987 Declaration stipulates in its Annex, that each State has the obligation to abstain in international relations from the threat or use of force against the territorial integrity or political independence of any State or to act in any manner contrary to the purposes of the United Nations and that such a threat or use constitutes a violation of International Law and of the Charter of the United Nations and entails international responsibility (General Assembly, 1987, point 1).

Regarding the nature of this ban, the text of the 1987 Declaration is very clear and unequivocal as it specifies that the principle enjoys a universal and binding character, regardless of the political, economic or social system of the State (General Assembly, 1987, point 2). Moreover, it includes in the scope of the principle the obligation of States to refrain from organizing, instigating, supporting or participating in paramilitary, terrorist or subversive acts, including acts of mercenaries in other States, or association in activities organized in their territory for the purpose of committing such acts (General Assembly, 1987, point 6).

Despite the details given to the content of the principle of the prohibition of the use of force, it remains one of the most controversial topics in Public International Law, as the jurisprudence has not fully clarified the requirements under which exceptions are justified and the practice of States and acts adopted by other international bodies (especially within the Security Council of the United Nations) have been neither uniform nor constant.

Following the interpretation given by the International Court of Justice in the case of *Military and Paramilitary Activities in Nicaragua*, the prohibition of the use of force is considered to be part of Customary International Law (ICJ, 1986).

The notion of *threat of use of force* as part of the prohibition of the use force is even more blurred and difficult to analyse and the International Court of Justice did not make clear delimitations. In its Advisory Opinion on the *Legality of the Use of Force*, the International Court of Justice noted that the threat of use of force is illegal if the use of force itself is illegal, but it did not mention whether possession of nuclear weapons constitutes an illegal threat of use of force (ICJ, 1996).

In its *Advisory Opinion on the Construction of a Wall on Occupied Palestinian Territory* (ICJ, 2004), the International Court of Justice noted that the inadmissibility of acquiring territories by threat or use of force is a rule of Customary International Law, which means that the conquest of a territory does not transfer a legal title of sovereignty, even if it is followed by a *de facto* occupation accompanied by the assertion of authority over that territory (Cassese, 2005, p. 57).

## 2. Early attempts to define aggression

States tried for years to find a proper and adequate legal definition of aggression. This was one of the first tasks set for the International Law Commission, a subsidiary organism of the General Assembly of the United Nations established in 1947.

The International Law Commission failed to define aggression, not because its members were not creative or experienced enough, but because of the further legal implications of defining such an abominable act.

In 1950, the International Law Commission referred to the general principles of law recognized by the Charter of the Nuremberg Tribunal (United Nations, 1945c), which mentions aggression as a crime against peace as part of principle VI (International Law Commission, 1950) in the following wording:

> *Crimes against peace:*
> *Planning, preparation, initiation or waging of a war of aggression or a war in violation of international treaties, agreements or assurances;*
> *Participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned under (i).*

General principles of law are a source of Public International Law, according to Article 38 para 1 d of the Statute of the International Court of Justice (United Nations, 1945b).

The first attempts to define aggression failed and in 1951 the Special Rapporteur noted that *aggression, by its very nature, is not likely to be defined* and that a *legal* definition of aggression would be an artificial construction, which, applied to specific cases, could lead to conclusions contrary to the "natural" notion of aggression (Moldovan, 2019). Attempts to define aggression continued in 1952, by establishing a new committee tasked with implementing a definition, as well as in 1954, 1957 and 1967, but to no avail (Wilmshurst, 2008).

Sir Gerald Fitzmaurice, a former representative of the United Kingdom in the International Law Commission, explained in1952 the reasons why giving a legal satisfactory definition for acts of aggression was a difficult process and highlighted that

*It is true that there may be some doubt whether the existence of a definition*, however good it was, would really deter a deliberate aggressor. *In major cases, at any rate, countries only embark on aggression if they think it is going to be successful, and if they think is going to be successful, they are unlikely to worry very much about the consequences. Nevertheless, it must be admitted that there may well be cases in which countries will be deterred from taking certain types of action which otherwise they would be tempted to take, if it is clear in advance that the taking of such action will automatically characterize them as aggressors…* (Fitzmaurice, 1952, p. 137).

## 3. Definition of aggression

Even if the International Law Commission failed to give a definition to aggression, in December 14, 1974 the General Assembly of the United Nations by consensus adopted the Resolution no. 3314 (XXIX) which contains in its Annex the definition of aggression (General Assembly of the UN, 1974).

According to Article 1 of the Annex to the Resolution, the definition is a broad one starting from the content of Article 2 para 4 of the Charter of the United Nations, as follows:

*Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition.*

Details are contained in the following provisions of the Resolution and related to acts comprising the use of military force, yet it was not used as guide by the Security Council in qualifying as such acts of the States (Wilmshurst, 2008).

Article 2 stipulates that:

*The First use of armed force by a State in contravention of the Charter shall constitute prima facie evidence of an act of aggression although the Security Council may, in conformity with the Charter, conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances, including the fact that the acts concerned or their consequences are not of sufficient gravity.*

Article 3 includes examples of the acts that fall within the said definition:

*Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:*

*(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,*
*(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;*
*(c) The blockade of the ports or coasts of a State by the armed forces of another State;*
*(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;*
*(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;*
*(f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;*
*(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.*

Article 4 of the Resolution mentions that the list is not exhaustive, and the Security Council may qualify other acts as aggression. Aggression cannot be justified for reasons of a political, economic, military or other nature (according to Article 5 para 1), the war of aggression is a crime against international peace and determines international responsibility (Article 5 para 2) and territorial acquisition may not be considered lawful (Article 5 para 3).

In the *Military and Paramilitary Activities in and against Nicaragua* case, the International Court of Justice Court held that certain actions of the United States of America, committed with the intention of overthrowing the government of Nicaragua, were contrary to the principle of prohibition of the use of force, such as placing mines in the waters of Nicaragua, attacks on ports and oil facilities of Nicaragua, aid given to opposition forces *contras*, engaged in fighting with government armed forces, arming and training of *contras* military forces (ICJ, *Military and Paramilitary Activities in and against Nicaragua*, Judgment, 1986, para 228) .

The wording of the definition given by the Resolution no. 3314 is unequivocally clear and refers exclusively to the use of armed force against sovereignty and territorial integrity of a state, so it has no applicability for situations of use of armed force in internal armed conflicts or civil wars (Rosenne, 2002, p. 161). The definition refers strictly to acts committed by States as subjects of Public International Law and should not be confused with the crime of aggression provided by the Statute of the

International Criminal Court which sets in its Article 5 para 1 that its competence includes, in addition to the crime of genocide, crimes against humanity, war crimes and the crime of aggression (United Nations, 2004). In accordance with this provision, States adopted the definition of aggression, through the Amendments adopted in Kampala on 11 June 2010, which entered into force on July 17, 2018, activating the competence International Criminal Court on the crime of aggression, on July 17, 2018 (United Nations, 2010).

Concerning the crime of aggression mentioned in the Statute of the International Criminal Court (United Nations, 2004), in order to avoid confusions on the scope and the nature of responsibility, a series of clarifications must be made, both regarding the authors and the competence to judge acts that are limited to this notion. The competence of the International Criminal Court concerns individuals and not States.

The definition of the crime of aggression is provided by Article 8 bis 1 para 1 added by Resolution 6 of 11 June 2010, in the following wording:

> *For the purpose of this Statute, "crime of aggression" means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.*

Next, the same Article, at para 2, defines the meaning of the notion act of aggression:

> *For the purpose of paragraph 1, "act of aggression" means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression.*

Therefore, the reference to the meaning of the Resolution no. 3314 (XXIX) of 1974 is direct and the elements of the crime of aggression are those described therein. The consequence of the insertion of the new article in the Rome Statute is that the act of aggression becomes a crime engaging the individual criminal responsibility of those who committed acts mentioned by the definition and it does not only raise the question of State responsibility.

However, it must be emphasized that the definition is restrictive since the perpetrators must be one or more persons in a position effectively to exercise control over or to direct the political or military action of the State and it excludes members of non-state armed groups acting on behalf of foreign States. Nonetheless, if the

persons acted as de facto agents of the State, the acts committed may be considered constitutive elements of aggression.

The conditions are also stringent on the referral. The Prosecutor may only proceed *proprio motu* investigation or an investigation based on a State referral but first there must be made an assertion whether the Security Council made a determination of the existence of an act of aggression.

## 4. International responsibility as a consequence of breaching international obligations

The description of acts of aggression mentioned above is completely applicable to acts committed on the Ukrainian territory by the Russian military forces. Thus, the rules of international responsibility of States are applicable. Responsibility of States for internationally wrongful acts is a fundamental institution of Public International Law, characterized by complexity, which is not analyzed from the perspective of criteria and specific conditions of the legal institution of liability in domestic law and comprises a special mechanism (Brownlie, 1998, 90).

International liability of States is part of Customary International Law and its mechanism is based on the commission by the State of an act that can be considered illegal, consisting in violation of an international obligation. This was the opinion of the Permanent Court of International Justice in 1927 in its *Factory at Chorzów* case

> *It is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form. Reparation therefore is the indispensable complement of a failure to apply a convention and there is no necessity for this to be stated in the convention itself.* (Permanent Court of International Justice, *Factory at Chorzów*, 1927, 21)

As previously mentioned, Russian Federation is in breach of an international obligation.

The legal notion of international responsibility of States was a topic of high interest for States in the first half of the twentieth century, being a subject chosen for codification within the League of Nations and one of the main themes of the 1930 Hague Codification Conference, which failed to adopt a text on the subject (Crawford, 1999; Crawford, 2012).

A significant contribution to this topic has The International Law Commission on International Law, which submitted several draft articles on international responsibility (Maxim, 2012, 11) for articles which it submitted for debate to the General Assembly in this matter. The most recent text is *the Draft Articles on the International Liability of the State for Illicit Acts* adopted in 2001 and presented to the General Assembly hereinafter, in the present paper, *the Draft Articles 2001* (International Law Commission, 2001).

The aim of the *Draft Articles 2001* was to systematize, through codification and progressive development, the fundamental rules of Public International Law on the international responsibility of States for unlawful acts. To date, no changes or additions have been made to the structure or content of the *Draft Articles 2001*, with virtually no progress being made on the regulation of this subject of international law by consensus. However, General Assembly submitted the Draft Articles to the attention of the States in 2004, 2007, 2010 (General Assembly, 2007; General assembly, 2010) with no changes being made.

According to Article 1 of the *Draft Articles 2001,* the foundation of the responsibility of the States is the commission of an illicit act:

*Every internationally wrongful act of a State entails the international responsibility of that State.*

In general, it is considered that in order to entail the international responsibility of the states, it is necessary to meet three elements: a) illicit conduct; b) the conduct is attributable to a State; c) causing a damage (Moldovan, 2019).

The illicit conduct of a State is the first element of the international responsibility consisting in an action or inaction that is a breach of an international obligation regardless of its source (international treaties or international custom). According to the view of the International Law Commission expressed in Article 3 of the *Draft Articles 2001*, this assessment is carried out autonomously of the qualification of such acts under domestic law. Therefore, a possible qualification of an act committed by a State as lawful by the domestic law is not relevant, instead rules and principles of International Law shall be applicable.

The *Draft Articles 2001* refer to illicit international acts that can be attributed to the State and do not include distinctions based on their severity or the nature of the norms that were breached. Previously, under these criteria, the Draft Articles adopted in 1996 (International Law Commission, 1996) made a distinction between two categories of illicit acts: international crimes and international delicts. The differentiation of the two categories of illicit international acts did not constitute a new idea in 1996, it was also included in various documents adopted since 1976 (Bowett, 1998, 163).

The *Draft Articles 2001* mentions that only behavior that can be attributed to the State at the international level can lead to its responsibility, which is consistent with the customary international rule according to which the acts of the State bodies are considered to be the acts of the State itself (Draft Articles 2001 Article 4). It is irrelevant whether the officials or the bodies acted as *de jure* or de *facto agents.* In certain conditions, the State may be responsible even for the acts of individuals and for those that are committed directly by State agents. This is the conclusion drawn from the judgment of the International Court of Justice in the *Corfu Canal case* (International Court of Justice, 1949), in which the Court held Albania responsible for the consequences determined by the explosions of the mines that were placed in its

territorial waters, based on the Albanian authorities' knowledge of this issue and the lack of warning of the presence of mines.

## 5. Applicability and legal consequences concerning Ukraine

The military invasion of the Ukrainian territory is inconsistent with the international rules and principles analysed in the present paper and the Russian Federation committed an internationally wrongful act that should trigger the mechanism of international responsibility, all the elements required are met. However, this mechanism is subjected to the rule of jurisdiction of the International Court of Justice as concerns the State.

According to the provisions of Article 36 of the Statute of the International Court of Justice, the principal judicial body of the United Nations, for the Court to be able to exercise competence in an application filed by States, the State parties (both State parties) need to formally accept the jurisdiction of the Court (United Nations, 1945b). This requirement is not fulfilled in the case of the Russian Federation, as it did not accept the jurisdiction of the Court in relation to the provisions of the Charter of the United Nations. And this is the main reason for which the application filed by Ukraine before the International Court of Justice after the invasion of its territory, on February 27, 2022 is not based on the provisions of Article 2 para 4 of the Charter of the United Nations, but on the provisions of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (International Court of Justice, 2022), as both States are parties to this Convention and accepted the jurisdiction of the Court. The Application of Ukraine refers to the declarations of the Russian Presidents that the military operations have the objective to "de-nazify" Ukraine, which is according to the Applicant, a transparent pretext for an unprovoked war of aggression. Ukraine also applied for an order for provisional measures and, on March 16, 2002, the International Court of Justice issued such an order indicating at point 1 that

> *The Russian Federation shall immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine* (by thirteen votes to two)
>
> and that
>
> *The Russian Federation shall ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control or direction, take no steps in furtherance of the military operations referred to in point (1) above;* (by thirteen votes to two) (International Court of Justice, 2022).

The Court noted that it has *prima facie* jurisdiction under Article IX of the Genocide Convention to order the suspension of military operations by way of a provisional measure.

The said Article provides that:

> *Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute*.

In its declaration, vice-president Gevorgian presented the reasons for his dissenting opinion by analyzing these provisions taking into consideration the opposition expressed by Russia`s Ambassador to the Kingdom of Netherlands to the jurisdiction of the Court and the scope of the Genocide Convention as well (International Court of Justice, Judge Gevorgian, 2022).

The order of the Court is consistent with its jurisprudence on provisional measures; however, this does not mean that the Application submitted by Ukraine will be considered well-founded and it may take a couple of years for the Court to judge the case.

As regards the criminal responsibility of individuals, Ukraine is not a State party to the Rome Statute of International Criminal Court, but accepted the jurisdiction of the Court first in 2013 and again in 2015 (International Criminal Court, 2022). Following the invasion of the Ukrainian territory, 39 States parties to the Rome Statute made referrals to the Office of the Prosecutor of the International Criminal Court, which led to the opening of an investigation for allegations of war crimes, crimes against humanity or genocide committed on any part of the territory of Ukraine by any person (International Criminal Court, 2022).

## Conclusions

Often, there are many blurred lines in cases concerning the application of International Law. The Russian invasion of Ukraine is not one of them. The acts committed by the Russian Federation since February 2022 are contrary to the very essential core rules and principles of International Law, addressed in the present paper. In addition, the Russian military troops are continuously violating International Humanitarian law, especially concerning the treatment of civil population, targeting civilian establishments and the treatment of war prisoners.

Although the violations are very clear and there lacks any legal justification, legally establishing the responsibility of the Russian Federation and of those that are acting in the military is problematic due to an important and highly relevant rule applicable: the jurisdiction, which is the most sensitive and probably will be analyzed

by the International Court of Justice in the case filed by Ukraine against the Russian Federation concerning the application of the Genocide Convention.

As regards the acts committed by the military forces that are under investigation by the Office of the Prosecutor of the International Criminal Court, the jurisdiction issue is also sensitive, as the Russian Federation is not a party to the Statute of the International Criminal Court. In fact, it signed the Statute in 2000 and later, in 2016 it officially notified the Secretary General of the United Nations on withdrawal of its signature and the fact that it does not have the intention of expressing its consent and become a state party to the Statute. This moment was closely related to the investigation opened by the Office of the Prosecutor of the International Criminal Court, concerning acts committed since November 2013 in the Eastern part of Ukraine.

As it appears, the current legal status on responsibility and the notion of jurisdiction are favourable to the Russian Federation and show the weakness of the legal status, despite the clear definition of aggression as an act contrary to International Law for States and individuals. States and the international community in its entirety need to overcome these obstacles and find new mechanisms and new definitions of the relevant legal institutions in order to apply the rules of International Law on aggression, ensure the international security and renew state commitments to the International Court of Justice, International Criminal Court and international justice.

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