COUNCIL OF EUROPE

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Frequently asked questions

Special Tribunal for the Crime of Aggression against Ukraine

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What is the Special Tribunal for the Crime of Aggression against Ukraine?

The Special Tribunal will be set up within the framework of the Council of Europe with the mandate to prosecute senior political and military leaders for the crime of aggression against Ukraine. This crime refers to the decision to use armed force against another state, in violation of the UN Charter.

Why is a new tribunal necessary? Is the International Criminal Court (ICC) not already handling this?

The ICC has the jurisdiction to investigate war crimes, crimes against humanity, and genocide in Ukraine. However, it cannot currently examine the crime of aggression in this case due to jurisdictional limitations for the crime of aggression. The Special Tribunal will fill this gap.

Is there a plan/agreement setting out how the Special Tribunal will interact with the ICC (for example in cases concerning the same suspects)?

According to its Statute, the Special Tribunal is complementary to the ICC, and the Special Tribunal and the ICC are expected to conclude agreements on mutual cooperation. When a person concerned is detained by the ICC, that will have primacy over proceedings before the Special Tribunal.

What exactly is the crime of aggression?

The crime of aggression is when a state's leaders launch or plan a war. It is considered a "leadership crime," meaning it concerns those in positions of power who made or facilitated the decision to go to war.

Who will be held accountable by this tribunal? Is the Russian Federation not already being held accountable in other ways?

The tribunal will focus on senior political and military leaders who are responsible for planning, preparing, initiating, or executing the crime of aggression against Ukraine.

The Russian Federation is also being held accountable in other ways — through sanctions, political condemnation, and ongoing legal proceedings before the European Court of Human Rights and other international courts.

However, holding individuals criminally accountable for the decision to wage a war of aggression is a separate and crucial step toward justice and deterrence.

As pointed out above, although the ICC can prosecute individuals responsible for war crimes and crimes against humanity committed in the course of the war, it will not be possible to bring the waging of the war as such before the ICC in this case.

Would it also be possible for the Special Tribunal to prosecute the leaders of Belarus, and maybe even North Korea?

As the Special Tribunal will deal with establishing accountability for the crime of aggression committed against Ukraine, Belarusian or North Korean individuals could potentially be prosecuted if evidence shows they played a significant role in the crime of aggression against Ukraine.

How will the tribunal be established?

The tribunal will be established within the framework of the Council of Europe and financed by a group of supportive states, going beyond the membership of the Council of Europe, in co-operation with Ukraine. Setting up the Special Tribunal through the Council of Europe aims to ensure that it is international, independent and legitimate. The jurisdiction of the Special Tribunal is based on Ukrainian territorial jurisdiction.

Is this tribunal fair and impartial? How does this tribunal fit into the broader system of international justice?

The Special Tribunal will follow internationally and regionally recognised standards of due process and the rule of law – for instance, those of the European Convention on Human Rights – ensuring fair trials, defence rights and judicial independence.

The Special Tribunal will complement the existing work of the ICC and other international and national efforts to ensure accountability. Co-operation with the ICC and other international accountability mechanisms will be fundamental to the work of the Special Tribunal.

What political support exists for the tribunal? How does this help Ukraine?

The Parliamentary Assembly of the Council of Europe and the European Parliament have adopted resolutions in favour of creating the Special Tribunal. Ukraine has been a key advocate, in particular in reaching out to states beyond Europe.

The Core Group on the Establishment of a Special Tribunal for the Crime of Aggression against Ukraine was composed of senior legal experts from around 40 states who worked together with the Ukrainian authorities, the Council of Europe and the EU's legal services to seek justice for Ukraine in the face of the Russian Federation's aggression.

The Core Group held its final meeting in Strasbourg on 19-21 March 2025 and concluded its work on the three legal instruments needed to establish the Special Tribunal. The instruments were then submitted to the political level for approval, which was given at a Ministerial Meeting of the Core Group in Lviv, Ukraine, on 9 May 2025.

On 14 May 2025, at the annual meeting of Council of Europe foreign ministers in Luxembourg, the Secretary General received a formal request to establish the Special Tribunal, signed by the Ukrainian Minister of Foreign Affairs.

On 24 June 2025, following the endorsement of the documents by an *ad hoc* working group, the Council of Europe's Committee of Ministers decided to authorise the Secretary General to sign the Agreement, to which the Statute of the Tribunal is annexed. The Committee of Ministers further authorised the establishment of an Enlarged Partial Agreement on the Management Committee of the Special Tribunal.

The bilateral Agreement was signed by the President of Ukraine and the Secretary General of the Council of Europe in Strasbourg on 25 June 2025.

The above mentioned Enlarged Partial Agreement was adopted on 15 May 2026 at the 135th Session of the Committee of Ministers in Chişinău, Republic of Moldova. To date, altogether 38 states and the European Union have notified their intention to join the instrument. The entry into force of the Enlarged Partial Agreement is currently still pending the finalisation of internal procedures by some of the participating states.

The establishment of the Special Tribunal through the Council of Europe will give Ukraine a path to justice for holding accountable those responsible for deciding to invade its territory — a wrong that no other international court or tribunal can currently address.

The tribunal will reaffirm the fundamental principle that war must not be waged as a tool of state policy. It will uphold the global international law-based order, deter future acts of aggression by state leaders and strengthen mechanisms for accountability and the peaceful resolution of disputes. It is an investment in global peace, justice and the credibility of international law.

Which are the participating countries?

Some countries that support the idea of the Special Tribunal are still engaged in sensitive diplomatic discussions. They may be weighing how to balance their legal commitments,

political alliances and broader foreign policy goals. Once the key legal documents for the establishment and functioning of the Tribunal are formally accepted by states and come into force, the names of the Members and Associate Members will be made public.

How is the EU involved?

The European Union has been one of the strongest political supporters of the initiative. The EU has helped coordinate political backing among its member states and – through the establishment of the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA) in The Hague – provided a forum for important preparatory work. The legal service of the Council of Europe cooperated closely with the EU legal services when drafting, refining and finalising the three legal documents setting up the Special Tribunal. As from January 2026, the European Union will contribute 10 million euros through its Foreign Policy Instruments to a project to be implemented by the Council of Europe on the Special Tribunal Advance Team (STAT), which is to prepare the institutional, logistical and legal foundations for the next phases of the Tribunal.

When will the Special Tribunal start its work?

Practical work towards establishing the Special Tribunal can begin once states have ensured financial and political support through the Enlarged Partial Agreement.

Is it realistic to think this tribunal can bring Russian leaders to trial? Under what circumstances could the “troika” feasibly be tried?

There are clear legal, political and practical obstacles — notably, the immunity of sitting Heads of State, Heads of Government and Foreign Ministers (so-called “troika members”) and difficulties in obtaining physical custody over potential defendants. However, international law is evolving, and personal immunity is not a 'carte blanche' for impunity.

The “troika members” could only be brought to trial before the Special Tribunal if they were no longer in power or their immunity had been waived. However, investigations and the gathering of evidence can be conducted, indictments can be prepared, and a legal body will stand ready to prosecute and try the persons concerned if and when circumstances allow.

Furthermore, the Special Tribunal’s Prosecutor will be able to publish a formal document setting out the charges and material facts in each case.

Will it be possible to carry out trials in absentia, and in which circumstances?

Yes, it will be possible to conduct proceedings in absentia where the interests of justice so require and where the person concerned waives his or her right to participate in the proceedings or all reasonable steps have been taken to secure his or her presence but to no effect.

Trials in absentia will have to be accompanied by procedural safeguards such as the right to legal representation of the interests and rights of the accused. Persons tried in absentia will have the right to request a retrial if they subsequently appear before the Special Tribunal in person, unless they waive that right or accept the initial judgment.

Whose idea was this in the first place?

The proposal to establish a Special Tribunal to prosecute the crime of aggression against Ukraine was promoted by Ukrainian legal experts and government officials, following, in particular, the publication of an article by renowned international lawyer and professor Philippe Sands, soon after the full-scale invasion in February 2022.

The idea quickly gained support from international lawyers, human rights organisations and several countries, particularly in Europe, who recognised a clear legal gap no existing court could hold senior leaders accountable for the specific crime of aggression. The Parliamentary Assembly of the Council of Europe was the first international body to call for the establishment of such a tribunal in April 2022, just two months after the full-scale invasion.

How much will this cost? And who will pay for it?

While exact costs are still being determined, the cost is likely to be similar to that of other international or internationalised criminal tribunals. The Special Tribunal will be financed and managed by the Members and Associate Members of the Enlarged Partial Agreement.

How will the judges and prosecutors be chosen?

Members and Associate Members of the Management Committee will be able to propose candidates for the roster of judges. Nominated candidates do not need to be nationals of a state that is Member or Associate Member of the Management Committee. The roster will include 15 judges. An independent advisory panel will recommend the most suitable candidates for the roster of judges to the Management Committee, which will elect the judges by secret ballot, by an absolute majority, for a nine year term.

Candidates for the role of Prosecutor will be proposed by states that are Members or Associate Members of the Management Committee. Nominations for the post of Prosecutor should preferably be made with the support of multiple states. The nominated candidate would not need to be a national of a state that is Member or Associate Member of the Management Committee. The advisory panel will recommend the most suitable candidates to the Management Committee. The Prosecutor will be elected by secret ballot by an absolute majority of the Management Committee.

The term of office will be seven years, without the possibility of re-election. The Deputy Prosecutor(s) will be elected in the same way as the Prosecutor, from a list of candidates provided by the Prosecutor, for a seven-year term, without the possibility of re-election.

How will the tribunal ensure respect for its rulings or warrants, given recent developments concerning the ICC?

The Special Tribunal will be able to enter in co-operation agreements with states, which will be bound by international law to ensure respect for its rulings and warrants.
International justice often faces challenges when states refuse to cooperate, but legal and political pressure can produce tangible results to ensure compliance with international judicial rulings and warrants.

How do moves towards setting up the Tribunal relate to ongoing peace talks?

The Special Tribunal will be about accountability. It is a long-term effort to address the crime of all crimes and uphold the rule of law. While peace talks focus on ending hostilities, justice mechanisms like this one ensure that those responsible for aggression do not get away unpunished.

When will the Special Tribunal be up and running, and where will it be located?

It is hoped that an initial form of the Special Tribunal can soon be operational, provided that financing is secured and its operational capacity ensured through the above-mentioned Enlarged Partial Agreement.

This will become a fully-fledged tribunal as soon as the Host State Agreement enters into force. The Tribunal’s location will be confirmed in the coming months.