

Resolution adopted by the General Assembly on 14 November 2022

[without reference to a Main Committee (A/ES-11/L.6)]

ES-11/5. Furtherance of remedy and reparation for aggression against Ukraine

The General Assembly,

Reaffirming the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations, Recalling the obligations of all States under Article 2 of the Charter, including the obligation to 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, and to settle their international disputes by peaceful means,

Recalling also the obligation under Article 33 (1) of the Charter that Members which are parties to any dispute shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice,

Taking note of Security Council resolution 2623 (2022) of 27 February 2022,

Recalling its right under Article 14 of the Charter to recommend measures for the peaceful adjustment of any situation which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the Charter, Recalling also its resolutions ES-11/1 of 2 March 2022, entitled “Aggression against Ukraine”, ES-11/2 of 24 March 2022, entitled “Humanitarian consequences of the aggression against Ukraine”, and ES-11/4 of 12 October 2022, entitled “Territorial integrity of Ukraine: defending the principles of the Charter of the United Nations”, in which, among other things, it reaffirmed its commitment to the sovereignty, independence, unity and territorial integrity of Ukraine,

Recalling further the order of the International Court of Justice of 16 March 2022 on the indication of provisional measures in the case concerning Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation),

Bearing in mind the importance of maintaining and strengthening international peace founded upon freedom, equality, justice and respect for human rights, and of developing friendly relations among nations irrespective of their political, economic and social systems or the levels of their development,

Expressing grave concern at the loss of life, civilian displacement, destruction of infrastructure and natural resources, loss of public and private property, and economic calamity caused by the aggression by the Russian Federation against Ukraine, Recalling its resolution 60/147 of 16 December 2005, the annex to which contains the Basic Principles and

Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,

1. Reaffirms its commitment to the sovereignty, independence, unity and territorial integrity of Ukraine and its demand that the Russian Federation immediately cease its use of force against Ukraine and that the Russian Federation immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders, extending to its territorial waters;
2. Recognizes that the Russian Federation must be held to account for any violations of international law in or against Ukraine, including its aggression in violation of the Charter of the United Nations, as well as any violations of international humanitarian law and international human rights law, and that it must bear the legal consequences of all of its internationally wrongful acts, including making reparation for the injury, including any damage, caused by such acts;
3. Recognizes also the need for the establishment, in cooperation with Ukraine, of an international mechanism for reparation for damage, loss or injury, and arising from the internationally wrongful acts of the Russian Federation in or against Ukraine;
4. Recommends the creation by Member States, in cooperation with Ukraine, of an international register of damage to serve as a record, in documentary form, of evidence and claims information on damage, loss or injury to all natural and legal persons concerned, as well as the State of Ukraine, caused by internationally wrongful acts of the Russian Federation in or against Ukraine, as well as to promote and coordinate evidence-gathering;
5. Decides to adjourn the eleventh emergency special session of the General Assembly temporarily and to authorize the President of the General Assembly to resume its meetings upon request from Member States.

15th plenary meeting

14 November 2022

Resolution CM/Res(2023)3

establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine

(Adopted by the Committee of Ministers on 12 May 2023 at the 1466th meeting of the Ministers' Deputies and amended on 27 September 2023 at the 1476th meeting of the Ministers' Deputies)

The representatives in the Committee of Ministers of Albania, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Ukraine and United Kingdom, as well as the representatives of the European Union, Canada, Japan and the United States of America,

Having regard to the Statute of the Council of Europe (ETS No. 1), which in its preamble underlines the pursuit of peace based upon justice;

Recalling the obligations of all States under Article 2 of the Charter of the United Nations, including the obligation to 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, and to settle their international disputes by peaceful means;

Reiterating their condemnation in the strongest terms of the aggression of the Russian Federation against Ukraine and expressing their full support for Ukraine and their solidarity with its people;

Calling on the Russian Federation to immediately cease the aggression, withdraw completely and unconditionally its forces from the internationally recognised territory of Ukraine, and release all civilians forcibly transferred or unlawfully deported to the territory of the Russian Federation or to areas temporarily controlled or occupied by the Russian Federation, in particular children;

Reiterating also their unwavering commitment to the independence, sovereignty and territorial integrity of Ukraine within its internationally recognised borders;

Recalling that, on 16 March 2022, the Committee of Ministers decided to exclude the Russian Federation from the Council of Europe as a result of its aggression against Ukraine, such aggression constituting a serious violation by the Russian Federation of its obligations under Article 3 of the Statute of the Council of Europe and under international law;

Condemning all violations of international law, including international human rights law and international humanitarian law, in particular attacks against civilians and civilian objects, including civilian infrastructure, cultural and religious heritage and the environment of

Ukraine, and convinced of the exigent necessity to ensure comprehensive accountability in the context of the Russian Federation's aggression against Ukraine;

Recalling in this respect the 2001 Articles on Responsibility of States for Internationally Wrongful Acts, the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, as well as the 2011 Guidelines of the Committee of Ministers on Eradicating impunity for serious human rights violations;

Recalling the decisions of the Committee of Ministers of 15 September 2022 and 24 February 2023 welcoming ongoing efforts, in co-operation with Ukraine, to secure full reparation for the damage, loss or injury caused by violations by the Russian Federation of international law in Ukraine;

Bearing in mind the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 "Furtherance of remedy and reparation for aggression against Ukraine" recognising, *inter alia*, that the Russian Federation must bear the legal consequences of all of its internationally wrongful acts in or against Ukraine, including making reparation for the injury, and for any damage, caused by such acts, and noting that this resolution also recognises the need for the establishment of an international mechanism for reparation, and recommends the creation of an international register of damage in co-operation with Ukraine;

Noting that the Parliamentary Assembly of the Council of Europe, in its Resolution 2482 (2023) on "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", reiterated its call on member States to set up an international compensation mechanism and, as a first step, an international register of damage;

Convinced that the establishment of a register of damage constitutes a significant first step to ensure timely compensation for the victims of the Russian Federation's internationally wrongful acts in or against Ukraine;

Having regard to Statutory Resolution [Res\(93\)28](#) of the Committee of Ministers on partial and enlarged agreements;

Having regard to Resolution [Res\(96\)36](#) of the Committee of Ministers establishing the criteria for partial and enlarged agreements of the Council of Europe, as amended by Resolution CM/Res(2010)2;

Having regard to the decision of 19 April 2023 whereby the Committee of Ministers authorised the establishment of a Register of Damage Caused by the Aggression of the Russian Federation against Ukraine in the form of an Enlarged Partial Agreement within the framework of the Council of Europe,

Resolve to establish the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (hereinafter "the Register"), governed by the Statute appended hereto that shall serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused to all natural and legal persons concerned, as well as the State of Ukraine (including its regional and local authorities, State-owned or controlled entities), caused on or after 24 February 2022 in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters, by Russian Federation's internationally wrongful acts in or against Ukraine;

Agree that the Register is established for an initial period of three years;

Agree to review the functioning of the Register, with a view to considering the continuation of its operation, by the end of the initial period of three years;

Invite all member and observer States of the Council of Europe, as well as other States and international organisations, to become members of the Enlarged Partial Agreement, in accordance with the Statute of the Register;

Call on Council of Europe member and observer States, the European Union, the United Nations and other States and international organisations to co-operate with the Register so as to facilitate its work;

Agree to disseminate information on the Register as widely as possible to potential claimants and the public at large, to States and to relevant international organisations and bodies;

Agree to continue working, in co-operation with Ukraine and relevant international organisations and bodies, towards the establishment by a separate international instrument of a future international compensation mechanism, which may include a claims commission and a compensation fund, of which the work of the Register, including its digital platform with all data about claims and evidence recorded therein is intended to constitute an integral part

CM/Res(2023)3-consolidated

Appendix to Resolution CM/Res(2023)3

Statute of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine

Article 1 - Mandate of the Register of Damage

1.1. The Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (hereinafter “the Register”) shall serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused, on or after 24 February 2022, in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters, to all natural and legal persons concerned, as well as the State of Ukraine, including its regional and local authorities, state-owned or controlled entities, by the Russian Federation’s internationally wrongful acts in or against Ukraine.

1.2. The Register shall be established as a platform for intergovernmental co-operation, acting within the institutional framework of the Council of Europe.

Article 2 - Functions of the Register of Damage

2.1. The Register shall receive and process information on claims of damage and evidence; categorise, classify and organise such claims, assess and determine the eligibility of claims

for inclusion in the Register and record the eligible claims for the purposes of their future examination and adjudication. The Register shall not have any adjudication functions with respect to such claims, including determination of responsibility and allocation of any payments or compensation.

2.2. Eligibility criteria for recording of claims in the Register for the purposes of their future examination and adjudication shall be determined in the rules and regulations of the Register, bearing in mind that such claims shall be made in relation to damage, loss or injury that was caused:

- a. on or after 24 February 2022;
- b. in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters;
- c. by the Russian Federation's internationally wrongful acts in or against Ukraine.

2.3. Claims, evidence and related information shall be submitted to the Register by natural and legal persons concerned, as well as the State of Ukraine (including its regional and local authorities, and State- owned or controlled entities).

2.4. The Register shall co-operate with relevant national and international partners for the purposes of promotion and co-ordination of gathering of evidence of the damage, loss or injury caused by the Russian Federation's internationally wrongful acts in or against Ukraine.

2.5. The work of the Register, including its digital platform with all data about claims and evidence recorded therein, is intended to constitute the first component of a future international compensation mechanism to be established by a separate international instrument in co-operation with Ukraine (hereinafter "a Compensation Mechanism"). The exact form of a future Compensation Mechanism is to be determined, but may include a claims commission and compensation fund mandated to examine and adjudicate claims and/or pay compensation for damage, loss or injury caused by the Russian Federation's internationally wrongful acts in or against Ukraine. The Register, through its Executive Director and with the support of its Secretariat, shall participate in and facilitate, as appropriate, the work aimed at the establishment of such a Compensation Mechanism, and take the necessary steps to prepare for the Register to be transferred to a Compensation Mechanism in accordance with this Statute.

Article 3 - Legal Status and seat

3.1. The Register shall possess juridical personality under the national law of the Kingdom of the Netherlands and of Ukraine and thus enjoy such legal capacity as is necessary for the exercise of its functions, fulfilment of its mandate and the protection of its interests, in particular the capacity to contract and to acquire and dispose of movable and immovable property.

3.2. The Register shall have capacity to enter into arrangements with States, international organisations and bodies in furtherance of its mandate.

3.3. The Register shall have its seat in The Hague, the Kingdom of the Netherlands. The status and operation of the Register in the Kingdom of the Netherlands shall be regulated by a Host State Agreement concluded by the Council of Europe.

3.4. The Register shall also have a satellite office in Ukraine for the purpose of liaising with the Government of Ukraine and facilitating outreach and contact with potential claimants

and the public at large in Ukraine, notably about the existence and purpose of the Register and the procedure for filing a claim for damage.

3.5. The General Agreement on Privileges and Immunities of the Council of Europe shall apply to the Register and its officials, including the Register's satellite office in Ukraine.

Article 4 - Participation

4.1. Any member or observer State of the Council of Europe and the European Union, as well as any other State that has voted in favour of the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 "Furtherance of remedy and reparation for aggression against Ukraine", may join the Register as a Participant by notification addressed to the Secretary General of the Council of Europe.

4.2. Any member or observer State of the Council of Europe and the European Union, as well as any other State that has voted in favour of the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 "Furtherance of remedy and reparation for aggression against Ukraine", may join the Register as an Associate Member by notification addressed to the Secretary General of the Council of Europe. Associate Members are encouraged to provide voluntary contributions to the Register in accordance with Article 10. Associate Members may, at any time, become Participants by notification addressed to the Secretary General of the Council of Europe.

4.3. The Conference of Participants may authorise any other State or international organisation having so requested to join the Register as Participant or Associate Member, taking into particular account the position of the Government of Ukraine.

Article 5 - Conference of Participants

5.1. The Conference of Participants (hereinafter "the Conference") shall be composed of one representative appointed by each Participant. Such appointments shall be communicated to the Secretary General of the Council of Europe.

5.2. The Conference shall elect from among its members a Chair and two Vice-Chairs for a period of three years.

5.3. The Conference shall:

- a. have overall responsibility for the fulfillment of the Register's mandate;
- b. recommend to Participants and Associate Members measures to advance the aims of the Register;
- c. approve the rules and regulations proposed by the Board for governing the work of the Register;
- d. appoint the members of the Board;
- e. designate the Executive Director upon a proposal by the Government of Ukraine;
- f. adopt the annual budget of the Register;
- g. adopt the annual activity report of the Register;
- h. perform any other function vested in it by this Statute.

5.4. The Conference shall meet as often as is necessary, but at least once a year. Travel and accommodation costs relating to the Conference shall be borne by each Participant and Associate Member. The Conference may exercise its decision-making through written procedure and by electronic means.

5.5. The Conference shall adopt its decisions by a two-thirds majority of the votes cast, with each Participant having one vote. Procedural matters shall be settled by a majority of the votes cast. The Conference shall adopt its own rules of procedure and any other arrangements required for the implementation of its activities.

5.6. Without prejudice to Article 5, paragraph 7, Associate Members may participate in the meetings of the Conference without the right to vote. Associate Members may make oral or written statements in the meetings of the Conference.

5.7. Associate Members having made voluntary contributions to the Register of an amount equal to the amount determined by the Conference for Participants in accordance with Article 10, shall have the full range of rights of Participants during the financial year for which they made such a contribution.

5.8. The Secretary General of the Council of Europe may participate or be represented in the meetings of the Conference without the right to vote. The Conference may invite representatives of relevant Council of Europe bodies or international organisations to attend its meetings or a part of its meetings, without voting rights, according to the items on its agenda. It may also invite experts to be present for specific items of its agenda, without the right to vote.

Article 6 - Board

6.1. The Board of the Register (hereinafter “the Board”) shall be composed of seven members, taking into account their integrity, experience and multidisciplinary expertise necessary for the efficient functioning of the Register, notably as regards international law, war damages and claims, accounting, and loss assessment, as well as gender and global geographical balance. The Conference may change the number of members of the Board if it is necessary in order to ensure efficient functioning of the Register, taking into account the volume and complexity of claims and related workload of the Board.

6.2. One of the members of the Board shall be appointed by the Conference from among candidates nominated by the Government of Ukraine. The other members of the Board shall be appointed by the Conference from among candidates nominated by Participants and Associate Members. Subject to Article 6, paragraph 3, all the members of the Board shall be appointed for a term of office of three years, renewable once.

6.3. The appointment and removal procedures of the members of the Board shall be determined by the Conference.

6.4. The members of the Board shall sit in their individual capacity, be independent and impartial in the exercise of their functions and be available to carry out their duties in an effective manner. The members of the Board shall be remunerated by the Register for their work on terms established by the Conference.

6.5. The Board shall, without prejudice to Article 5:

- a. have responsibility for the exercise of the Register’s functions;
- b. propose the rules and regulations governing the work of the Register and implement them as appropriate, including, in particular as regards the determination of the categories of claims, the procedures for the receiving, processing and recording of claims, the format of the claim forms and the requirements for evidence with respect to each category of claims, that shall be approved by the Conference;
- c. have the ultimate authority in determining the eligibility of claims to be recorded in the Register, based on the recommendation of the Executive Director;

d. perform any other function necessary for the fulfilment of the mandate of the Register that is not vested by this Statute in the Conference, Executive Director or Secretariat.

6.6. The Board shall determine the date from which the Register shall be open for submission of claims, evidence and related information.

6.7. The Board shall adopt its own rules of procedure and any other arrangements required for the implementation of its activities. The Board shall appoint a Chair and a Vice-Chair among its members for a term of office of three years, renewable once.

6.8. The Board shall meet regularly, but at least on a quarterly basis, in order to determine which claims should be recorded in the Register and to make any other decisions necessary to perform its functions. The Executive Director shall participate in these meetings in an advisory capacity.

6.9. The Board shall provide quarterly reports to the Conference. Such reports shall include the number of claims received and the number of eligible claims recorded in the Register, the relevant categories and the total amount of compensation sought (if applicable). Such reports shall also include the summary of other significant factual or legal matters relevant to the work of the Register.

Article 7 - Executive Director

7.1. The Executive Director shall represent the Register and is entitled to act on its behalf.

7.2. The Executive Director shall be entitled to enter into contracts and arrangements on behalf of the Register. Arrangements entered into by the Executive Director on behalf of the Register with national or international bodies providing for co-ordination of evidence gathering or any exchange of information on claims or evidence, shall be approved by the Board.

7.3. The Secretary General of the Council of Europe shall delegate to the Executive Director such

powers that are necessary for the exercise of the duties of the Executive Director with respect to the Secretariat.

7.4. The Executive Director shall:

- a. have day-to-day responsibility for overseeing and administering the work of the Secretariat of the Register;
- b. together with the Secretariat, ensure substantive, technical, administrative and organisational support for the work of the Conference and the Board, including regular liaison and preparation of their meetings;
- c. be responsible for forwarding claims to the Board for approval for recording in the Register;
- d. liaise with relevant national and international bodies on various issues related to the work of the Register and the process of collection of claims and evidence;
- e. liaise with the Government of the Kingdom of the Netherlands and the Government of Ukraine on various administrative matters related to the work of the Register;
- f. perform any other function vested in the Executive Director by this Statute.

7.5. The Executive Director shall be designated by the Conference upon proposal by the Government of Ukraine and appointed by the Secretary General of the Council of Europe, taking into account the integrity, experience and multi-disciplinary expertise necessary for this post. The Executive Director may be dismissed for justified reasons by the Secretary General following a procedure initiated by the Government of Ukraine or the Secretary General and after agreement by the Conference.

Article 8 - Secretariat of the Register

8.1. The Secretariat shall, under the authority of the Executive Director, provide substantive, technical and administrative support for the maintenance and functioning of the Register.

8.2. Without prejudice to Article 8, paragraph 3, the Secretariat shall have full administrative autonomy from the Council of Europe and its bodies.

8.3. The Council of Europe Staff Regulations shall apply to the Secretariat.

Article 9 - Independence

9.1. In the performance of their duties, the members of the Board, the Executive Director and the Secretariat shall not seek or receive instructions from any government, international organisation or from any other authority external to the Register.

9.2. Each Participant and Associate Member of the Register, as well as the Council of Europe and its bodies, commit to respect the exclusively independent character of the responsibilities of the members of the Board, the Executive Director and the Secretariat and not to seek to influence them in the discharge of their responsibilities.

Article 10 - Financing and budget

10.1. The Register shall have its own budget in accordance with Statutory Resolution Res(93)28. The Conference shall adopt every year the Register's budget on expenditure, prepared by the Executive Director.

10.2. The Register shall be financed through the annual contributions of its Participants and voluntary contributions of its Associate Members.

10.3. The Conference shall determine both the amount of the annual contributions of its Participants and the recommended voluntary contributions of its Associate Members. These contributions should be based, as a rule, on the criteria for the determination of the annual scale of contributions to the general budget of the Council of Europe and can be adjusted in accordance with the principles on which that scale is based.

10.4. The Register may receive and utilise additional voluntary grants and other contributions connected with its work, including contributions in kind, subject to the prior authorisation of the Conference. These contributions shall be consistent with the aims and functions of the Register.

10.5. The Conference shall approve every year the Register's annual accounts, which shall be drawn up by the Secretary General of the Council of Europe in accordance with the Financial Regulations of the Council of Europe and submitted to the Conference accompanied by the report of the External Auditor as provided for in the Financial Regulations. In order to discharge the Secretary General from responsibility for the management of the financial year in question, the Conference shall transmit to the Committee of Ministers the annual accounts, together with its approval or any comments, and the report drawn up by the External Auditor, as provided for in the Financial Regulations.

10.6. The Financial Regulations of the Council of Europe shall apply to the adoption and management of the budget of the Register, taking into account the provisions of this Statute.

Article 11 - Confidentiality

11.1. Subject to Article 11, paragraph 2, any information on claims and damage received by the Register, including any evidence, shall be treated as confidential.

Rules on access to documents and protection of data related to claims submitted to the Register shall be proposed by the Board and approved by the Conference, including on the sharing of information under the provisions of this Statute, in particular for the purposes of Article 2, paragraph 4.

Article 12 - Council of Europe Rules and Regulations¹

The Conference, upon a justified proposal from the Board or, until the Board is set up or should it not be functioning, the Executive Director, may approve derogations from applicable Council of Europe rules and regulations if doing so is required for the efficient exercise of the Register's functions. Such approved derogations shall be communicated to the Committee of Ministers and the Secretary General of the Council of Europe.

Article 13 - Amendments

This Statute may be amended only by decision of the Committee of Ministers, in its composition restricted to the representatives of the States Participants of the Register, by the majority stipulated in Article 20.d of the Statute of the Council of Europe and an identically worded decision of the Conference.

Article 14 - Transfer, succession and termination

14.1. Following the establishment of a Compensation Mechanism as referred to in Article 2, paragraph 5, the work of the Register shall be transferred as appropriate to such Compensation Mechanism in a way that will ensure the uninterrupted operation of the Register until its termination and that will place information on claims and evidence contained therein at the disposal of such Compensation Mechanism. Such transfer shall include the digital platform of the Register, including all information about claims and evidence contained therein, other documentation, including archives, its movable and immovable property, including, but not limited to, bank accounts, IT equipment, software and any licenses thereto, contracts and arrangements of the Register, as well as any associated data.

14.2. The Board shall propose the necessary rules and procedures with a view to ensuring as appropriate a smooth transfer of the Register to such Compensation Mechanism. These rules shall be approved by the Conference.

14.3. Such Compensation Mechanism is intended to be a successor of the Register following the completion of such transfer.

14.4. After such transfer is completed, as determined by the Board and confirmed by the Conference, the Register shall be terminated as an Enlarged Partial Agreement of the Council of Europe.

Article 15 - Settlement of disputes

The Participants shall seek to resolve any dispute which may arise concerning the application or interpretation of the provisions of this Statute by negotiation or by any other means of peaceful settlement accepted by mutual agreement between them.

Article 16 - Withdrawal and expulsion

- 16.1. Any Participant or Associate Member may withdraw from the Register by means of a notification sent to the Secretary General of the Council of Europe.
- 16.2. The Secretary General shall acknowledge receipt of the notification and inform the Participants and Associate Members of the Register.
- 16.3. The withdrawal of a Participant shall take effect at the end of the financial year in which it is notified, if such notification is given before 1 June of that financial year, or at the end of the following financial year, if notification of withdrawal is given on or after 1 June of the financial year. The withdrawal of an Associate Member shall come into effect upon receipt of the notification.
- 16.4. In accordance with applicable provisions of the Financial Regulations of the Council of Europe, the Conference shall examine the financial consequences of the withdrawal or expulsion of a Participant or an Associate Member and shall make the appropriate arrangements.
- 16.5. The Secretary General shall immediately inform the Participant concerned of the consequences of its withdrawal in accordance with Article 16, paragraph 3.
- 16.6. The Conference may decide that any Participant or Associate Member acting in a manner inconsistent with the mandate of the Register or impeding its functions, ceases to be a Participant or Associate Member of the Register as from such date as the Conference determines.

Partner banks of the eRecovery program

CATEGORIES OF CLAIMS ELIGIBLE FOR RECORDING

The Hague

www.RD4U.claims

CATEGORIES OF CLAIMS ELIGIBLE FOR RECORDING IN THE REGISTER OF DAMAGE FOR UKRAINE

Adopted by the Board of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine on 21 March 2024.

Approved by the Conference of Participants of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine on 26 March 2024.

1. In accordance with Article 8 of the Claims Rules of the Register of Damage for Ukraine, Claims submitted in the following categories shall be eligible for recording in the Register.

A Claims by natural persons
A1 Claims related to involuntary displacement
A1.1 Involuntary internal displacement
A1.2 Involuntary displacement outside of Ukraine
A2 Claims related to violation of personal integrity
A2.1 Death of an immediate family member
A2.2 Missing immediate family member
A2.3 Serious personal injury
A2.4 Sexual violence
A2.5 Torture, inhuman or degrading treatment or punishment
A2.6 Deprivation of liberty
A2.7 Forced labour or service
A2.8 Forcible transfer or deportation of children
A2.9 Forcible transfer or deportation of adults

A2.10 Other violations of international human rights law, international humanitarian law or laws and customs of war
A3 Claims related to loss of property, income or livelihood
A3.1 Damage or destruction of residential immovable property
A3.2 Damage or destruction of non-residential immovable property
A3.3 Loss of housing/residence
A3.4 Loss of gainful employment
A3.5 Loss of private enterprise
A3.6 Loss of access or control of immovable property in the temporarily occupied territories
A3.7 Other economic losses
A4 Loss of access to public services
A4.1 Loss of access to healthcare
A4.2 Loss of access to education
B Claims by the State of Ukraine
B1 Damage or destruction of property
B1.1 Damage or destruction of critical infrastructure
B1.2 Damage or destruction of non-critical infrastructure
B1.3 Damage or destruction of residential immovable property – residential areas
B1.4 Damage or destruction of residential immovable property – common use areas
B1.5 Damage or destruction of public buildings and facilities
B1.6 Other losses of property
B2 Loss of historic, cultural and religious heritage
B2.1 Damage or destruction of objects or buildings
B2.2 Loss of objects of cultural value
B3 Damage to environment and natural resources
B3.1 Environmental damage
B3.2 Depletion or damage of natural resources
B4 Humanitarian public expenditure to support affected population in Ukraine
B5 Demining and clearance of unexploded ordnance
C Claims by legal entities (other than those included in Category B)
C1 Damage or destruction of property
Damage or destruction of critical infrastructure
C1.2 Damage or destruction of non-critical infrastructure
C1.3 Damage or destruction of residential immovable property – residential areas

C1.4 Damage or destruction of residential immovable property – common use areas
C1.5 Damage or destruction of non-residential immovable property (not related to business losses)
C2 Loss of historic, cultural and religious heritage
C2.1 Damage or destruction of objects or buildings
C2.2 Loss of objects of cultural value
C3 Business and other economic losses
C3.1 Damage, destruction or loss of assets
C3.2 Loss of control of property in the temporarily occupied territories
C3.3 Relocation (evacuation) of businesses
C3.4 Other economic losses
C4 Humanitarian expenditures

2. Rules for submission of Claims in each specific category and the related evidentiary requirements shall be approved separately as Claim Forms for each category.
3. Claims must be submitted using Claim Forms approved for each category.
4. Categories of Claims are subject to change and/or clarification. Any changes to the categories shall be adopted in accordance with the Register's Statute and Claims Rules.

**REGISTER OF DAMAGE
CAUSED BY THE AGGRESSION OF THE RUSSIAN
FEDERATION
AGAINST UKRAINE**

CLAIM FORM

Claims Category A3.1

Damage or Destruction of Residential Immovable Property

The Hague

www.RD4U.claims

CLAIM FORM

Claims category A3.1. Damage or Destruction of Residential Immovable Property

Adopted by the Board of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine on 21 March 2024.

Approved by the Conference of Participants of the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine on 26 March 2024.

1. This Claim Form shall be used by Claimants to submit Claims in category of Claims **A3.1 - Damage or Destruction of Residential Immovable Property**. It contains a description of the information and Evidence Claimants are required to submit, as well as additional information and Evidence that may be submitted to support the Claim.
2. In accordance with Article 10 of the Claims Rules of the Register of Damage for Ukraine, this Claim Form shall be available in digital form in Diia. The Secretariat of the Register shall ensure that this Claim Form is reproduced in Diia in an efficient, flexible and user-friendly way, bearing in mind peculiarities of digital forms in general.
3. **“Disclaimer, Information and Instruction for the Claimants”** contained in this Claim Form shall be reproduced verbatim in digital form in Diia. The Secretariat shall also publish it on the Register’s website.

Disclaimer, Information, and Instructions for the Claimants

1. This Claim Form is for the submission of a Claim to the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine (“Register”).
2. The determination of whether your Claim is eligible to be recorded in the Register is made by the Board of the Register. Such determination does not mean that the substance of the Claim or its valuation has been examined, any compensation has been awarded, or any payment to you is due. Examination of your Claim and award of any compensation will be carried out by a future compensation mechanism (within the meaning of the Statute of the Register) that is yet to be established.

3. Before submitting the Claim, you are encouraged to consult the information about the Register on its website at www.RD4U.claims or www.RD4U.coe.int and the various rules and instructions related to the submission of the Claims, in particular - Rules Governing the Submission, Processing and Recording of Claims, as well as Frequently Asked Questions.
4. All Claims must be submitted by using Claim Forms approved by the Register for each category of Claims. This Claim Form is to be used for submission of Claims by natural persons for damage to or destruction of residential immovable property that was sustained on or after 24 February 2022 in the territory of Ukraine within its internationally recognized borders as a result of the Russian Federation's internationally wrongful acts in or against Ukraine - **Claims category A3.1**. If you wish to submit a Claim for a different type of loss, damage or injury, you should use the Claim Form for the relevant claims category.
5. Your Claim must be submitted to the Register through Diia, either via the mobile application *Diia* or a web portal at www.diia.gov.ua/rd4u.¹ The Register will process and review the Claim and the supporting evidence and decide whether your Claim is eligible for recording in the Register. You will be informed of the Register's decision in due course through *Diia*.
6. You will be required to submit certain information and evidence in support of your Claim, including proof of identity and proof of your ownership to property. Some information will be drawn from various existing electronic sources. You will be able to submit additional information and upload files with evidence to support your Claim as long as it is consistent with technical requirements of the Register. You will have a chance to check all information before it is submitted to the Register.
7. You are encouraged to submit all relevant evidence in support of your Claim. This encompasses any documents, records, statements, photos or other material that will facilitate the Register's processing and review of your Claim.
8. You will be asked to submit information regarding your identity as a Claimant, property in question, including your title to the property, information on your submission to the Register of Damaged and Destroyed Property (if you made such a submission), information about how the property was damaged or destroyed, description and evaluation of damage and destruction, and information about estimated amount of your Claim.
9. Some information will automatically be available to you, some information and evidence you will be asked to input manually. At the end of the Claim Form, you will have an opportunity to submit any additional information and evidence (files) as you feel necessary.
10. You do not need to complete your Claim all at once, and you will be able to save the draft Claim and complete it at a later stage. However, the draft Claim will only be saved in Diia for five days and will be deleted if you do not complete and submit the Claim during this time. If your Claim is deleted, you will need to restart the process from the beginning. Therefore, it is advisable to ensure that all the necessary information is prepared and available to you.
11. You should ensure that the files submitted as part of your Claim are accessible, readable and not infected with computer viruses or any form of malicious software. If the Register identifies any files submitted by you as inaccessible, unreadable or infected, your Claim may not be recorded in the Register.

12. By submitting your Claim and the supporting evidence and information, you agree to transfer personal data to the Register and authorise the Register to store, process and transfer such personal data in accordance with the Register's Rules on Personal Data Protection and Privacy.
13. By submitting your Claim and the supporting evidence and information, you confirm that they are a truthful representation of your identity as a Claimant, your right to make a Claim and the content of the Claim. If you have indicated the amount of the Claim, you confirm that it is not knowingly exaggerated. You understand that submitting an untruthful or exaggerated Claim, or a Claim that is manifestly unfounded, may result in your Claim not being recorded in the Register.

Preliminary Questions
1. Language of Claim submission (Ukrainian or English)
2. Category of Claim
Part I. Claimant Identification
3. Full Name
4. Gender
5. Date of Birth
6. Place of Birth
7. Nationality
8. ID document/Passport number
9. Ukrainian Tax ID number
10. Ukrainian Demographic Register Entry number
11. Claimant's Registered Address
12. Claimant's Current Address
13. Contact phone number(s)
14. Email address
15. Claimant Sub-Group (such as member of the military, territorial defence, law enforcement, emergency/utilities/critical infrastructure worker, medical personnel)
16. Has the Claimant been convicted of a crime in relation to Russian aggression against Ukraine
17. Is the Claimant subject to sanctions or other equivalent restrictive measures imposed by a government or an international organization
18. If the Claim is submitted through a Representative, information on such Representative
Part II. Identification of Property
19. Is the property residential
20. Type of property (Apartment/House/Other)

21. Is construction of the property completed
22. Address of the property
23. Geographical coordinates of the property
24. Property surface area
25. Number of rooms
Floor of the property (for apartments)
27. Number of people residing at the property
28. Is the property registered as historic or cultural heritage
29. Information on the building/structure
30. Is/was the property Claimant's main residence as of 24 February 2022
Part III. Title to property
31. Is the Claimant the owner of the property
32. Is the property title recorded in the State Registry of Immovable Property Rights in Ukraine
33. Information about the title from the State Registry of Immovable Property Rights in Ukraine
34. Evidence of attempted and denied registration of title in the State Registry of Immovable Property Rights in Ukraine
35. Date of creation of title
36. Information about co-owners of the property and their shares
Part IV. Submission to the Register of Damaged and Destroyed Property (RDDP) in Ukraine
37. Has an application with respect to this property been submitted to the RDDP in Ukraine
38. Registration number in RDDP
39. Information on Act of Commissions' Review (Damage Act)
40. Information on Engineering Inspection Report
41. Information on Evaluation Act and Evaluation Report
Part V. Event that Damaged or Destroyed the Property
42. Type of event that caused damage to or destruction of the property
43. Date of the event that caused damage to or destruction of the property
44. Description of event
Part VI. Damage to or Destruction of the Property
42. Type of event that caused damage to or destruction of the property
45. Type and degree of damage or destruction

46. Description of damage or destruction
47. Proof of damage or destruction
Part VII. Amount of the Claim
48. Evidence of any expert evaluation of damages
49. Amount of any expert evaluation of damages
50. Evidence of the value of the property prior to 24 February 2022
51. Evidence of repairs made to the property
52. Evidence of the cost of repairs
53. Amount of compensation assessed by Ukrainian authorities
54. Amount of compensation payments received from Ukrainian authorities
55. Estimated amount of Claim
Part VIII. Additional Evidence
56. Additional evidence with respect to Claimant's identity
57. Additional evidence with respect to property title
58. Additional evidence with respect to event of the damage or destruction
60. Additional evidence with respect to property value
61. Additional evidence with respect to other aspects of the Claim
Part IX. Check and submission
62. Check and confirmation of data
63. Verification of identity prior to submission
64. Agreement to transmit personal data
65. Submission of the Claim

Elements of Crimes* **

* Explanatory note: The structure of the elements of the crimes of genocide, crimes against humanity and war crimes follows the structure of the corresponding provisions of articles 6, 7 and 8 of the Rome Statute. Some paragraphs of those articles of the Rome Statute list multiple crimes. In those instances, the elements of crimes appear in separate paragraphs which correspond to each of those crimes to facilitate the identification of the respective elements.

** The Elements of Crimes are reproduced from the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002 (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II.B. The Elements of Crimes adopted at the 2010 Review Conference are replicated from the Official Records of the Review Conference of the Rome Statute of the International Criminal Court, Kampala, 31 May -11 June 2010 (International Criminal Court publication, RC/11).

Elements of Crimes*

Contents

General introduction

Article 6: Genocide

Introduction

6 (a) Genocide by killing

6 (b) Genocide by causing serious bodily or mental harm

6 (c) Genocide by deliberately inflicting conditions of life calculated to bring about physical destruction

6 (d) Genocide by imposing measures intended to prevent births

6 (e) Genocide by forcibly transferring children

Article 7: Crimes against humanity

Introduction

7 (1) (a) Crime against humanity of murder

7 (1) (b) Crime against humanity of extermination

7 (1) (c) Crime against humanity of enslavement

7 (1) (d) Crime against humanity of deportation or forcible transfer of population

7 (1) (e) Crime against humanity of imprisonment or other severe deprivation of physical liberty

7 (1) (f) Crime against humanity of torture

7 (1) (g)-1 Crime against humanity of rape

7 (1) (g)-2 Crime against humanity of sexual slavery

7 (1) (g)-3 Crime against humanity of enforced prostitution

7 (1) (g)-4 Crime against humanity of forced pregnancy

7 (1) (g)-5 Crime against humanity of enforced sterilization

- 7 (1) (g)-6 Crime against humanity of sexual violence
- 7 (1) (h) Crime against humanity of persecution
- 7 (1) (i) Crime against humanity of enforced disappearance of persons
- 7 (1) (j) Crime against humanity of apartheid
- 7 (1) (k) Crime against humanity of other inhumane acts

Article 8: War crimes

Introduction

Article 8 (2) (a)

- 8(2)(a)(i) War crime of wilful killing
- 8(2)(a)(ii)-1 War crime of torture
- 8(2)(a)(ii)-2 War crime of inhuman treatment
- 8(2)(a)(ii)-3 War crime of biological experiments
- 8(2)(a)(iii) War crime of wilfully causing great suffering
- 8(2)(a)(iv) War crime of destruction and appropriation of property
- 8(2)(a)(v) War crime of compelling service in hostile forces
- 8(2)(a)(vi) War crime of denying a fair trial
- 8(2)(a)(vii)-1 War crime of unlawful deportation and transfer
- 8(2)(a)(vii)-2 War crime of unlawful confinement
- 8(2)(a)(viii) War crime of taking hostages

Article 8 (2) (b)

- 8(2)(b)(i) War crime of attacking civilians
- 8(2)(b)(ii) War crime of attacking civilian objects
- 8(2)(b)(iii) War crime of attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission
- 8(2)(b)(iv) War crime of excessive incidental death, injury, or damage
- 8(2)(b)(v) War crime of attacking undefended places
- 8(2)(b)(vi) War crime of killing or wounding a person hors de combat
- 8(2)(b)(vii)-1 War crime of improper use of a flag of truce
- 8(2)(b)(vii)-2 War crime of improper use of a flag, insignia or uniform of the hostile party
- 8(2)(b)(vii)-3 War crime of improper use of a flag, insignia or uniform of the United Nations
- 8(2)(b)(vii)-4 War crime of improper use of the distinctive emblems of the Geneva Conventions
- 8(2)(b)(viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory
- 8(2)(b)(ix) War crime of attacking protected objects
- 8(2)(b)(x)-1 War crime of mutilation

8(2)(b)(x)-2 War crime of medical or scientific experiments
8(2)(b)(xi) War crime of treacherously killing or wounding
8(2)(b)(xii) War crime of denying quarter
8(2)(b)(xiii) War crime of destroying or seizing the enemy's property
8(2)(b)(xiv) War crime of depriving the nationals of the hostile power of rights or actions
8(2)(b)(xv) War crime of compelling participation in military operations
8(2)(b)(xvi) War crime of pillaging
8(2)(b)(xvii) War crime of employing poison or poisoned weapons
8(2)(b)(xviii) War crime of employing prohibited gases, liquids, materials or devices
8(2)(b)(xix) War crime of employing prohibited bullets
8(2)(b)(xx) War crime of employing weapons, projectiles or materials or methods of warfare listed in the Annex to the Statute
8(2)(b)(xxi) War crime of outrages upon personal dignity
8(2)(b)(xxii)-1 War crime of rape
8(2)(b)(xxii)-2 War crime of sexual slavery
8(2)(b)(xxii)-3 War crime of enforced prostitution
8(2)(b)(xxii)-4 War crime of forced pregnancy
8(2)(b)(xxii)-5 War crime of enforced sterilization
8(2)(b)(xxii)-6 War crime of sexual violence
8(2)(b)(xxiii) War crime of using protected persons as shields
8(2)(b)(xxiv) War crime of attacking objects or persons using the distinctive emblems of the Geneva Conventions
8(2)(b)(xxv) War crime of starvation as a method of warfare
8(2)(b)(xxvi) War crime of using, conscripting or enlisting children

Article 8 (2) (c)

8(2)(c)(i)-1 War crime of murder
8(2)(c)(i)-2 War crime of mutilation
8(2)(c)(i)-3 War crime of cruel treatment
8(2)(c)(i)-4 War crime of torture
8(2)(c)(ii) War crime of outrages upon personal dignity
8(2)(c)(iii) War crime of taking hostages
8(2)(c)(iv) War crime of sentencing or execution without due process

Article 8 (2) (e)

8(2)(e)(i) War crime of attacking civilians
8(2)(e)(ii) War crime of attacking objects or persons using the distinctive emblems of the Geneva Conventions

8(2)(e)(iii) War crime of attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission

8(2)(e)(iv) War crime of attacking protected objects

8(2)(e)(v) War crime of pillaging

8(2)(e)(vi)-1 War crime of rape

8(2)(e)(vi)-2 War crime of sexual slavery

8(2)(e)(vi)-3 War crime of enforced prostitution

8(2)(e)(vi)-4 War crime of forced pregnancy

8(2)(e)(vi)-5 War crime of enforced sterilization

8(2)(e)(vi)-6 War crime of sexual violence

8(2)(e)(vii) War crime of using, conscripting and enlisting children

8(2)(e)(viii) War crime of displacing civilians

8(2)(e)(ix) War crime of treacherously killing or wounding

8(2)(e)(x) War crime of denying quarter

8(2)(e)(xi)-1 War crime of mutilation

8(2)(e)(xi)-2 War crime of medical or scientific experiments

8(2)(e)(xii) War crime of destroying or seizing the enemy's property

General introduction

1. Pursuant to article 9, the following Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7 and 8, consistent with the Statute. The provisions of the Statute, including article 21 and the general principles set out in Part 3, are applicable to the Elements of Crimes.

2. As stated in article 30, unless otherwise provided, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court only if the material elements are committed with intent and knowledge. Where no reference is made in the Elements of Crimes to a mental element for any particular conduct, consequence or circumstance listed, it is understood that the relevant mental element, i.e., intent, knowledge or both, set out in article 30 applies. Exceptions to the article 30 standard, based on the Statute, including applicable law under its relevant provisions, are indicated below.

3. Existence of intent and knowledge can be inferred from relevant facts and circumstances.

4. With respect to mental elements associated with elements involving value judgement, such as those using the terms "inhumane" or "severe", it is not necessary that the perpetrator personally completed a particular value judgement, unless otherwise indicated.

5. Grounds for excluding criminal responsibility or the absence thereof are generally not specified in the elements of crimes listed under each crime.¹

6. The requirement of "unlawfulness" found in the Statute or in other parts of international law, in particular international humanitarian law, is generally not specified in the elements of crimes.

7. The elements of crimes are generally structured in accordance with the following principles:
 - (a) As the elements of crimes focus on the conduct, consequences and circumstances associated with each crime, they are generally listed in that order;
 - (b) When required, a particular mental element is listed after the affected conduct, consequence or circumstance;
 - (c) Contextual circumstances are listed last.
8. As used in the Elements of Crimes, the term "perpetrator" is neutral as to guilt or innocence. The elements, including the appropriate mental elements, apply, *mutatis mutandis*, to all those whose criminal responsibility may fall under articles 25 and 28 of the Statute.
9. A particular conduct may constitute one or more crimes.
10. The use of short titles for the crimes has no legal effect.

Article 6

Genocide

Introduction

With respect to the last element listed for each crime:

- (a) The term "in the context of 'would include the initial acts in an emerging pattern;
- (b) The term "manifest" is an objective qualification;
- (c) Notwithstanding the normal requirement for a mental element provided for in article 30, and recognizing that knowledge of the circumstances will usually be addressed in proving genocidal intent, the appropriate requirement, if any, for a mental element regarding this circumstance will need to be decided by the Court on a case-by-case basis.

Article 6 (a)

Genocide by killing

Elements

1. The perpetrator killed one or more persons.
2. Such person or persons belonged to a particular national, ethnic, racial or religious group.
3. The perpetrator intended to destroy, in whole or in part, that national, ethnic, racial or religious group, as such.
4. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

Article 6 (b)

Genocide by causing serious bodily or mental harm

Elements

1. The perpetrator caused serious bodily or mental harm to one or more persons.
2. Such person or persons belonged to a particular national, ethnic, racial or religious group.

3. The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

Article 6 (c)

Genocide by deliberately inflicting conditions of life calculated to bring about physical destruction

Elements

1. The perpetrator inflicted certain conditions of life upon one or more persons.
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The conditions of life were calculated to bring about the physical destruction of that group, in whole or in part.
5. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

Article 6 (d)

Genocide by imposing measures intended to prevent births

Elements

1. The perpetrator imposed certain measures upon one or more persons.
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The measures imposed were intended to prevent births within that group.
5. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

Article 6 (e)

Genocide by forcibly transferring children

Elements

1. The perpetrator forcibly transferred one or more persons.
2. Such person or persons belonged to a particular national, ethnical, racial or religious group.
3. The perpetrator intended to destroy, in whole or in part, that national, ethnical, racial or religious group, as such.
4. The transfer was from that group to another group.
5. The person or persons were under the age of 18 years.

6. The perpetrator knew, or should have known, that the person or persons were under the age of 18 years.
7. The conduct took place in the context of a manifest pattern of similar conduct directed against that group or was conduct that could itself effect such destruction.

Article 7

Crimes against humanity

Introduction

1. Since article 7 pertains to international criminal law, its provisions, consistent with article 22, must be strictly construed, taking into account that crimes against humanity as defined in article 7 are among the most serious crimes of concern to the international community as a whole, warrant and entail individual criminal responsibility, and require conduct which is impermissible under generally applicable international law, as recognized by the principal legal systems of the world.
2. The last two elements for each crime against humanity describe the context in which the conduct must take place. These elements clarify the requisite participation in and knowledge of a widespread or systematic attack against a civilian population. However, the last element should not be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization. In the case of an emerging widespread or systematic attack against a civilian population, the intent clause of the last element indicates that this mental element is satisfied if the perpetrator intended to further such an attack.
3. "Attack directed against a civilian population" in these context elements is understood to mean a course of conduct involving the multiple commission of acts referred to in article 7, paragraph 1, of the Statute against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack. The acts need not constitute a military attack. It is understood that "policy to commit such attack" requires that the State or organization actively promote or encourage such an attack against a civilian population.

Article 7 (1) (a)

Crime against humanity of murder

Elements

1. The perpetrator killed one or more persons.
2. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
3. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack against a civilian population.

Article 7 (1) (b)

Crime against humanity of extermination

Elements

1. The perpetrator killed⁸ one or more persons, including by inflicting conditions of life calculated to bring about the destruction of part of a population.
2. The conduct constituted, or took place as part of, a mass killing of members of a civilian population.

3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (c)

Crime against humanity of enslavement

Elements

1. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.
2. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
3. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (d)

Crime against humanity of deportation or forcible transfer of population

Elements

1. The perpetrator deported or forcibly¹² transferred,¹³ without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts.
2. Such person or persons were lawfully present in the area from which they were so deported or transferred.
3. The perpetrator was aware of the factual circumstances that established the lawfulness of such presence.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (e)

Crime against humanity of imprisonment or other severe deprivation of physical liberty

Elements

1. The perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty.
2. The gravity of the conduct was such that it was in violation of fundamental rules of international law.
3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (f)

Crime against humanity of torture

Elements

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. Such person or persons were in the custody or under the control of the perpetrator.
3. Such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (g)-1

Crime against humanity of rape

Elements

1. The perpetrator invaded¹⁵ the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (g)-2

Crime against humanity of sexual slavery

Elements

1. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.
2. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (g)-3

Crime against humanity of enforced prostitution

Elements

1. The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
2. The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (g)-4

Crime against humanity of forced pregnancy

Elements

1. The perpetrator confined one or more women forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.
2. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
3. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (g)-5

Crime against humanity of enforced sterilization

Elements

1. The perpetrator deprived one or more persons of biological reproductive capacity.
2. The conduct was neither justified by the medical or hospital treatment of the person or persons concerned nor carried out with their genuine consent.
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (g)-6

Crime against humanity of sexual violence

Elements

1. The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking

advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.

2. Such conduct was of a gravity comparable to the other offences in article 7, paragraph 1 (g), of the Statute.
3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.
4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (h)

Crime against humanity of persecution

Elements

1. The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights.
2. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.
3. Such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognized as impermissible under international law.
4. The conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court.
5. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
6. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (i)

Crime against humanity of enforced disappearance of persons

Elements

1. The perpetrator:
 - (a) Arrested, detained or abducted one or more persons; or
 - (b) Refused to acknowledge the arrest, detention or abduction, or to give information on the fate or whereabouts of such person or persons.
2. (a) Such arrest, detention or abduction was followed or accompanied by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or
(b) Such refusal was preceded or accompanied by that deprivation of freedom.
3. The perpetrator was aware that:

- (a) Such arrest, detention or abduction would be followed in the ordinary course of events by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons; or
- (b) Such refusal was preceded or accompanied by that deprivation of freedom.
- 4. Such arrest, detention or abduction was carried out by, or with the authorization, support or acquiescence of, a State or a political organization.
- 5. Such refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of such person or persons was carried out by, or with the authorization or support of, such State or political organization.
- 6. The perpetrator intended to remove such person or persons from the protection of the law for a prolonged period of time.
- 7. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
- 8. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (j)

Crime against humanity of apartheid

Elements

- 1. The perpetrator committed an inhumane act against one or more persons.
- 2. Such act was an act referred to in article 7, paragraph 1, of the Statute, or was an act of a character similar to any of those acts.
- 3. The perpetrator was aware of the factual circumstances that established the character of the act.
- 4. The conduct was committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups.
- 5. The perpetrator intended to maintain such regime by that conduct.
- 6. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.
- 7. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 7 (1) (k)

Crime against humanity of other inhumane acts

Elements

- 1. The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act.
- 2. Such act was of a character similar to any other act referred to in article 7, paragraph 1, of the Statute.
- 3. The perpetrator was aware of the factual circumstances that established the character of the act.
- 4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.

Article 8

War crimes

Introduction

The elements for war crimes under article 8, paragraph 2 (c) and (e), are subject to the limitations addressed in article 8, paragraph 2 (d) and (f), which are not elements of crimes.

The elements for war crimes under article 8, paragraph 2, of the Statute shall be interpreted within the established framework of the international law of armed conflict including, as appropriate, the international law of armed conflict applicable to armed conflict at sea.

With respect to the last two elements listed for each crime:

- (a) There is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international;
- (b) In that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as international or non-international;
- (c) There is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms "took place in the context of and was associated with".

Article 8 (2) (a)

Article 8 (2) (a) (i)

War crime of willful killing

Elements

1. The perpetrator killed one or more persons.
2. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
3. The perpetrator was aware of the factual circumstances that established that protected status.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (ii)-1

War crime of torture

Elements

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.
3. Such person or persons were protected under one or more of the Geneva Conventions of 1949.

4. The perpetrator was aware of the factual circumstances that established that protected status.
5. The conduct took place in the context of and was associated with an international armed conflict.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (ii)-2

War crime of inhuman treatment

Elements

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
3. The perpetrator was aware of the factual circumstances that established that protected status.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (ii)-3

War crime of biological experiments

Elements

1. The perpetrator subjected one or more persons to a particular biological experiment.
2. The experiment seriously endangered the physical or mental health or integrity of such person or persons.
3. The intent of the experiment was non-therapeutic and it was neither justified by medical reasons nor carried out in such person's or persons' interest.
4. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
5. The perpetrator was aware of the factual circumstances that established that protected status.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (iv)

War crime of destruction and appropriation of property

Elements

1. The perpetrator destroyed or appropriated certain property.
2. The destruction or appropriation was not justified by military necessity.

3. The destruction or appropriation was extensive and carried out wantonly.
4. Such property was protected under one or more of the Geneva Conventions of 1949.
5. The perpetrator was aware of the factual circumstances that established that protected status.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (v)

War crime of compelling service in hostile forces

Elements

1. The perpetrator coerced one or more persons, by act or threat, to take part in military operations against that person's own country or forces or otherwise serve in the forces of a hostile power.
2. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
3. The perpetrator was aware of the factual circumstances that established that protected status.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (vi)

War crime of denying a fair trial

Elements

1. The perpetrator deprived one or more persons of a fair and regular trial by denying judicial guarantees as defined, in particular, in the third and the fourth Geneva Conventions of 1949.
2. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
3. The perpetrator was aware of the factual circumstances that established that protected status.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (vii)-1

War crime of unlawful deportation and transfer

Elements

1. The perpetrator deported or transferred one or more persons to another State or to another location.

2. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
3. The perpetrator was aware of the factual circumstances that established that protected status.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.
3. The perpetrator was aware of the factual circumstances that established that protected status.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (a) (viii)

War crime of taking hostages

Elements

1. The perpetrator seized, detained or otherwise held hostage one or more persons.
2. The perpetrator threatened to kill, injure or continue to detain such person or persons.
3. The perpetrator intended to compel a State, an international organization, a natural or legal person or a group of persons to act or refrain from acting as an explicit or implicit condition for the safety or the release of such person or persons.
4. Such person or persons were protected under one or more of the Geneva Conventions of 1949.
5. The perpetrator was aware of the factual circumstances that established that protected status.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b)

Article 8 (2) (b) (i)

War crime of attacking civilians

Elements

1. The perpetrator directed an attack.
2. The object of the attack was a civilian population as such or individual civilians not taking direct part in hostilities.
3. The perpetrator intended the civilian population as such or individual civilians not taking direct part in hostilities to be the object of the attack.
4. The conduct took place in the context of and was associated with an international armed conflict.

5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (ii)

War crime of attacking civilian objects

Elements

1. The perpetrator directed an attack.
2. The object of the attack was civilian objects, that is, objects which are not military objectives.
3. The perpetrator intended such civilian objects to be the object of the attack.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (iii)

War crime of attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission

Elements

1. The perpetrator directed an attack.
2. The object of the attack was personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations.
3. The perpetrator intended such personnel, installations, material, units or vehicles so involved to be the object of the attack.
4. Such personnel, installations, material, units or vehicles were entitled to that protection given to civilians or civilian objects under the international law of armed conflict.
5. The perpetrator was aware of the factual circumstances that established that protection.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (iv)

War crime of excessive incidental death, injury, or damage

Elements

1. The perpetrator launched an attack.
2. The attack was such that it would cause incidental death or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment and that such death, injury or damage would be of such an extent as to be clearly excessive in relation to the concrete and direct overall military advantage anticipated.
3. The perpetrator knew that the attack would cause incidental death or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural

environment and that such death, injury or damage would be of such an extent as to be clearly excessive in relation to the concrete and direct overall military advantage anticipated.

4. The conduct took place in the context of and was associated with an international armed conflict.

5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (v)

War crime of attacking undefended places³⁸

Elements

1. The perpetrator attacked one or more towns, villages, dwellings or buildings.

2. Such towns, villages, dwellings or buildings were open for unresisted occupation.

3. Such towns, villages, dwellings or buildings did not constitute military objectives.

4. The conduct took place in the context of and was associated with an international armed conflict.

5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (vi)

War crime of killing or wounding a person hors de combat

Elements

1. The perpetrator killed or injured one or more persons.

2. Such person or persons were hors de combat.

3. The perpetrator was aware of the factual circumstances that established this status.

4. The conduct took place in the context of and was associated with an international armed conflict.

5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (vii)-1

War crime of improper use of a flag of truce

Elements

1. The perpetrator used a flag of truce.

2. The perpetrator made such use in order to feign an intention to negotiate when there was no such intention on the part of the perpetrator.

3. The perpetrator knew or should have known of the prohibited nature of such use.

4. The conduct resulted in death or serious personal injury.

5. The perpetrator knew that the conduct could result in death or serious personal injury.

6. The conduct took place in the context of and was associated with an international armed conflict.

7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (vii)-2

War crime of improper use of a flag, insignia or uniform of the hostile party

Elements

1. The perpetrator used a flag, insignia or uniform of the hostile party.
2. The perpetrator made such use in a manner prohibited under the international law of armed conflict while engaged in an attack.
3. The perpetrator knew or should have known of the prohibited nature of such use.⁴⁰
4. The conduct resulted in death or serious personal injury.
5. The perpetrator knew that the conduct could result in death or serious personal injury.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (vii)-3

War crime of improper use of a flag, insignia or uniform of the United Nations

Elements

1. The perpetrator used a flag, insignia or uniform of the United Nations.
2. The perpetrator made such use in a manner prohibited under the international law of armed conflict.
3. The perpetrator knew of the prohibited nature of such use.
4. The conduct resulted in death or serious personal injury.
5. The perpetrator knew that the conduct could result in death or serious personal injury.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (vii)-4

War crime of improper use of the distinctive emblems of the Geneva Conventions

Elements

1. The perpetrator used the distinctive emblems of the Geneva Conventions.
2. The perpetrator made such use for combatant purposes in a manner prohibited under the international law of armed conflict.
3. The perpetrator knew or should have known of the prohibited nature of such use.
4. The conduct resulted in death or serious personal injury.
5. The perpetrator knew that the conduct could result in death or serious personal injury.
6. The conduct took place in the context of and was associated with an international armed conflict.

7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (viii)

The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory

Elements

1. The perpetrator:
 - (a) Transferred, directly or indirectly, parts of its own population into the territory it occupies; or
 - (b) Deported or transferred all or parts of the population of the occupied territory within or outside this territory.
2. The conduct took place in the context of and was associated with an international armed conflict.
3. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (ix)

War crime of attacking protected objects

Elements

1. The perpetrator directed an attack.
2. The object of the attack was one or more buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives.
3. The perpetrator intended such building or buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives, to be the object of the attack.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (x)-1

War crime of mutilation

Elements

1. The perpetrator subjected one or more persons to mutilation, in particular by permanently disfiguring the person or persons, or by permanently disabling or removing an organ or appendage.
2. The conduct caused death or seriously endangered the physical or mental health of such person or persons.
3. The conduct was neither justified by the medical, dental or hospital treatment of the person or persons concerned nor carried out in such person's or persons' interest.
4. Such person or persons were in the power of an adverse party.

5. The conduct took place in the context of and was associated with an international armed conflict.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (x)-2

War crime of medical or scientific experiments

Elements

1. The perpetrator subjected one or more persons to a medical or scientific experiment.
2. The experiment caused death or seriously endangered the physical or mental health or integrity of such person or persons.
3. The conduct was neither justified by the medical, dental or hospital treatment of such person or persons concerned nor carried out in such person's or persons' interest.
4. Such person or persons were in the power of an adverse party.
5. The conduct took place in the context of and was associated with an international armed conflict.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xi)

War crime of treacherously killing or wounding

Elements

1. The perpetrator invited the confidence or belief of one or more persons that they were entitled to, or were obliged to accord, protection under rules of international law applicable in armed conflict.
2. The perpetrator intended to betray that confidence or belief.
3. The perpetrator killed or injured such person or persons.
4. The perpetrator made use of that confidence or belief in killing or injuring such person or persons.
5. Such person or persons belonged to an adverse party.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xii)

War crime of denying quarter

Elements

1. The perpetrator declared or ordered that there shall be no survivors.
2. Such declaration or order was given in order to threaten an adversary or to conduct hostilities on the basis that there shall be no survivors.
3. The perpetrator was in a position of effective command or control over the subordinate forces to which the declaration or order was directed.

4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xiii)

War crime of destroying or seizing the enemy's property

Elements

1. The perpetrator destroyed or seized certain property.
2. Such property was property of a hostile party.
3. Such property was protected from that destruction or seizure under the international law of armed conflict.
4. The perpetrator was aware of the factual circumstances that established the status of the property.
5. The destruction or seizure was not justified by military necessity.
6. The conduct took place in the context of and was associated with an international armed conflict.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xiv)

War crime of depriving the nationals of the hostile power of rights or actions

Elements

1. The perpetrator effected the abolition, suspension or termination of admissibility in a court of law of certain rights or actions.
2. The abolition, suspension or termination was directed at the nationals of a hostile party.
3. The perpetrator intended the abolition, suspension or termination to be directed at the nationals of a hostile party.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xv)

War crime of compelling participation in military operations

Elements

1. The perpetrator coerced one or more persons by act or threat to take part in military operations against that person's own country or forces.
2. Such person or persons were nationals of a hostile party.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xvi)

War crime of pillaging

Elements

1. The perpetrator appropriated certain property.
2. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use.⁴⁷
3. The appropriation was without the consent of the owner.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xvii)

War crime of employing poison or poisoned weapons

Elements

1. The perpetrator employed a substance or a weapon that releases a substance as a result of its employment.
2. The substance was such that it causes death or serious damage to health in the ordinary course of events, through its toxic properties.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xviii)

War crime of employing prohibited gases, liquids, materials or devices

Elements

1. The perpetrator employed a gas or other analogous substance or device.
2. The gas, substance or device was such that it causes death or serious damage to health in the ordinary course of events, through its asphyxiating or toxic properties.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xix)

War crime of employing prohibited bullets

Elements

1. The perpetrator employed certain bullets.
2. The bullets were such that their use violates the international law of armed conflict because they expand or flatten easily in the human body.

3. The perpetrator was aware that the nature of the bullets was such that their employment would uselessly aggravate suffering or the wounding effect.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xx)

War crime of employing weapons, projectiles or materials or methods of warfare listed in the Annex to the Statute

Elements

[Elements will have to be drafted once weapons, projectiles or material or methods of warfare have been included in an annex to the Statute.]

Article 8 (2) (b) (xxi)

War crime of outrages upon personal dignity

Elements

1. The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons.
2. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxii)-1

War crime of rape

Elements

1. The perpetrator invaded⁵⁰ the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxii)-2

War crime of sexual slavery

Elements

1. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.
2. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxii)-3

War crime of enforced prostitution

Elements

1. The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
2. The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxii)-4

War crime of forced pregnancy

Elements

1. The perpetrator confined one or more women forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.
2. The conduct took place in the context of and was associated with an international armed conflict.
3. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxii)-5

War crime of enforced sterilization

Elements

1. The perpetrator deprived one or more persons of biological reproductive capacity.
2. The conduct was neither justified by the medical or hospital treatment of the person or persons concerned nor carried out with their genuine consent.
3. The conduct took place in the context of and was associated with an international armed conflict.

4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxii)-6

War crime of sexual violence

Elements

1. The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
2. The conduct was of a gravity comparable to that of a grave breach of the Geneva Conventions.
3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxiii)

War crime of using protected persons as shields

Elements

1. The perpetrator moved or otherwise took advantage of the location of one or more civilians or other persons protected under the international law of armed conflict.
2. The perpetrator intended to shield a military objective from attack or shield, favour or impede military operations.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxiv)

War crime of attacking objects or persons using the distinctive emblems of the Geneva Conventions

Elements

1. The perpetrator attacked one or more persons, buildings, medical units or transports or other objects using, in conformity with international law, a distinctive emblem or other method of identification indicating protection under the Geneva Conventions.
2. The perpetrator intended such persons, buildings, units or transports or other objects so using such identification to be the object of the attack.
3. The conduct took place in the context of and was associated with an international armed conflict.

4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxv)

War crime of starvation as a method of warfare

Elements

1. The perpetrator deprived civilians of objects indispensable to their survival.
2. The perpetrator intended to starve civilians as a method of warfare.
3. The conduct took place in the context of and was associated with an international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (b) (xxvi)

War crime of using, conscripting or enlisting children

Elements

1. The perpetrator conscripted or enlisted one or more persons into the national armed forces or used one or more persons to participate actively in hostilities.
2. Such person or persons were under the age of 15 years.
3. The perpetrator knew or should have known that such person or persons were under the age of 15 years.
4. The conduct took place in the context of and was associated with an international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c)

Article 8 (2) (c) (i)-1

War crime of murder

Elements

1. The perpetrator killed one or more persons.
2. Such person or persons were either hors de combat, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities.
3. The perpetrator was aware of the factual circumstances that established this status.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c) (i)-2

War crime of mutilation

Elements

1. The perpetrator subjected one or more persons to mutilation, in particular by permanently disfiguring the person or persons, or by permanently disabling or removing an organ or appendage.
2. The conduct was neither justified by the medical, dental or hospital treatment of the person or persons concerned nor carried out in such person's or persons' interests.
3. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.
4. The perpetrator was aware of the factual circumstances that established this status.
5. The conduct took place in the context of and was associated with an armed conflict not of an international character.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c) (i)-3

War crime of cruel treatment

Elements

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. Such person or persons were either hors de combat, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities.
3. The perpetrator was aware of the factual circumstances that established this status.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c) (i)-4

War crime of torture

Elements

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.
2. The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind.
3. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.
4. The perpetrator was aware of the factual circumstances that established this status.
5. The conduct took place in the context of and was associated with an armed conflict not of an international character.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c) (ii)

War crime of outrages upon personal dignity

Elements

1. The perpetrator humiliated, degraded or otherwise violated the dignity of one or more persons.
2. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognized as an outrage upon personal dignity.
3. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.
4. The perpetrator was aware of the factual circumstances that established this status.
5. The conduct took place in the context of and was associated with an armed conflict not of an international character.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c) (iii)

War crime of taking hostages

Elements

1. The perpetrator seized, detained or otherwise held hostage one or more persons.
2. The perpetrator threatened to kill, injure or continue to detain such person or persons.
3. The perpetrator intended to compel a State, an international organization, a natural or legal person or a group of persons to act or refrain from acting as an explicit or implicit condition for the safety or the release of such person or persons.
4. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.
5. The perpetrator was aware of the factual circumstances that established this status.
6. The conduct took place in the context of and was associated with an armed conflict not of an international character.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (c) (iv)

War crime of sentencing or execution without due process

Elements

1. The perpetrator passed sentence or executed one or more persons.
2. Such person or persons were either hors de combat, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.
3. The perpetrator was aware of the factual circumstances that established this status.
4. There was no previous judgement pronounced by a court, or the court that rendered judgement was not "regularly constituted", that is, it did not afford the essential guarantees of

independence and impartiality, or the court that rendered judgement did not afford all other judicial guarantees generally recognized as indispensable under international law.

5. The perpetrator was aware of the absence of a previous judgement or of the denial of relevant guarantees and the fact that they are essential or indispensable to a fair trial.

6. The conduct took place in the context of and was associated with an armed conflict not character.

7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e)60

Article 8 (2) (e) (i)

War crime of attacking civilians

Elements

1. The perpetrator directed an attack.
2. The object of the attack was a civilian population as such or individual civilians hostilities.
3. The perpetrator intended the civilian population as such or individual civilians hostilities to be the object of the attack.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (ii)

War crime of attacking objects or persons using the distinctive emblems of the Geneva Conventions

Elements

1. The perpetrator attacked one or more persons, buildings, medical units or transports or other objects using, in conformity with international law, a distinctive emblem or other method of identification indicating protection under the Geneva Conventions.
2. The perpetrator intended such persons, buildings, units or transports or other objects so using such identification to be the object of the attack.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (iii)

War crime of attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission

Elements

1. The perpetrator directed an attack.

2. The object of the attack was personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations.
3. The perpetrator intended such personnel, installations, material, units or vehicles so involved to be the object of the attack.
4. Such personnel, installations, material, units or vehicles were entitled to that protection given to civilians or civilian objects under the international law of armed conflict.
5. The perpetrator was aware of the factual circumstances that established that protection.
6. The conduct took place in the context of and was associated with an armed conflict not of an international character.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (iv)

War crime of attacking protected objects⁶¹

Elements

1. The perpetrator directed an attack.
2. The object of the attack was one or more buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives.
3. The perpetrator intended such building or buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals or places where the sick and wounded are collected, which were not military objectives, to be the object of the attack.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (v)

War crime of pillaging

Elements

1. The perpetrator appropriated certain property.
2. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use.⁶²
3. The appropriation was without the consent of the owner.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vi)-1

War crime of rape

Elements

1. The perpetrator invaded⁶³ the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vi)-2

War crime of sexual slavery⁶⁵

Elements

1. The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.
2. The perpetrator caused such person or persons to engage in one or more acts of a sexual nature.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vi)-3

War crime of enforced prostitution

Elements

1. The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
2. The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with the acts of a sexual nature.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vi)-4

War crime of forced pregnancy

Elements

1. The perpetrator confined one or more women forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.
2. The conduct took place in the context of and was associated with an armed conflict not of an international character.
3. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vi)-5

War crime of enforced sterilization

Elements

1. The perpetrator deprived one or more persons of biological reproductive capacity.
2. The conduct was neither justified by the medical or hospital treatment of the person or persons concerned nor carried out with their genuine consent.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vi)-6

War crime of sexual violence

Elements

1. The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.
2. The conduct was of a gravity comparable to that of a serious violation of article 3 common to the four Geneva Conventions.
3. The perpetrator was aware of the factual circumstances that established the gravity of the conduct.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (vii)

War crime of using, conscripting and enlisting children

Elements

1. The perpetrator conscripted or enlisted one or more persons into an armed force or group or used one or more persons to participate actively in hostilities.
2. Such person or persons were under the age of 15 years.

3. The perpetrator knew or should have known that such person or persons were under the age of 15 years.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (viii)

War crime of displacing civilians

Elements

1. The perpetrator ordered a displacement of a civilian population.
2. Such order was not justified by the security of the civilians involved or by military necessity.
3. The perpetrator was in a position to effect such displacement by giving such order.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (ix)

War crime of treacherously killing or wounding

Elements

1. The perpetrator invited the confidence or belief of one or more combatant adversaries that they were entitled to, or were obliged to accord, protection under rules of international law applicable in armed conflict.
2. The perpetrator intended to betray that confidence or belief.
3. The perpetrator killed or injured such person or persons.
4. The perpetrator made use of that confidence or belief in killing or injuring such person or persons.
5. Such person or persons belonged to an adverse party.
6. The conduct took place in the context of and was associated with an armed conflict not of an international character.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (x)

War crime of denying quarter

Elements

1. The perpetrator declared or ordered that there shall be no survivors.
2. Such declaration or order was given in order to threaten an adversary or to conduct hostilities on the basis that there shall be no survivors.
3. The perpetrator was in a position of effective command or control over the subordinate forces to which the declaration or order was directed.

4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (xi)-1

War crime of mutilation

Elements

1. The perpetrator subjected one or more persons to mutilation, in particular by permanently disfiguring the person or persons, or by permanently disabling or removing an organ or appendage.
2. The conduct caused death or seriously endangered the physical or mental health of such person or persons.
3. The conduct was neither justified by the medical, dental or hospital treatment of the person or persons concerned nor carried out in such person's or persons' interest.
4. Such person or persons were in the power of another party to the conflict.
5. The conduct took place in the context of and was associated with an armed conflict not of an international character.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (xi)-2

War crime of medical or scientific experiments

Elements

1. The perpetrator subjected one or more persons to a medical or scientific experiment.
2. The experiment caused the death or seriously endangered the physical or mental health or integrity of such person or persons.
3. The conduct was neither justified by the medical, dental or hospital treatment of such person or persons concerned nor carried out in such person's or persons' interest.
4. Such person or persons were in the power of another party to the conflict.
5. The conduct took place in the context of and was associated with an armed conflict not of an international character.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (xii)

War crime of destroying or seizing the enemy's property

Elements

1. The perpetrator destroyed or seized certain property.
2. Such property was property of an adversary.
3. Such property was protected from that destruction or seizure under the international law of armed conflict.

4. The perpetrator was aware of the factual circumstances that established the status of the property.
5. The destruction or seizure was not required by military necessity.
6. The conduct took place in the context of and was associated with an armed conflict not of an international character.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (xiii)

War crime of employing poison or poisoned weapons

Elements

1. The perpetrator employed a substance or a weapon that releases a substance as a result of its employment.
2. The substance was such that it causes death or serious damage to health in the ordinary course of events, through its toxic properties.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (xiv)

War crime of employing prohibited gases, liquids, materials or devices

Elements

1. The perpetrator employed a gas or other analogous substance or device.
2. The gas, substance or device was such that it causes death or serious damage to health in the ordinary course of events, through its asphyxiating or toxic properties.
3. The conduct took place in the context of and was associated with an armed conflict not of an international character.
4. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 (2) (e) (xv)

War crime of employing prohibited bullets

Elements

1. The perpetrator employed certain bullets.
2. The bullets were such that their use violates the international law of armed conflict because they expand or flatten easily in the human body.
3. The perpetrator was aware that the nature of the bullets was such that their employment would uselessly aggravate suffering or the wounding effect.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 8 bis

Crime of aggression

Introduction

1. It is understood that any of the acts referred to in article 8 bis, paragraph 2, qualify as an act of aggression.
2. There is no requirement to prove that the perpetrator has made a legal evaluation as to whether the use of armed force was inconsistent with the Charter of the United Nations.
3. The term "manifest" is an objective qualification.
4. There is no requirement to prove that the perpetrator has made a legal evaluation as to the "manifest" nature of the violation of the Charter of the United Nations.

Elements

1. The perpetrator planned, prepared, initiated or executed an act of aggression.
2. The perpetrator was a person in a position effectively to exercise control over or to direct the political or military action of the State which committed the act of aggression.
3. The act of aggression - 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 - was committed.
4. The perpetrator was aware of the factual circumstances that established that such a use of armed force was inconsistent with the Charter of the United Nations.
5. The act of aggression, by its character, gravity and scale, constituted a manifest violation of the Charter of the United Nations.
6. The perpetrator was aware of the factual circumstances that established such a manifest violation of the Charter of the United Nations.