

# GPAAAC INAUGURAL SESSION: BUILDING A NETWORK WITH AN EYE ON UKRAINE

19 July 2022 Session Summary



## GPAAAC

THE GLOBAL PARLIAMENTARY  
ALLIANCE AGAINST ATROCITY  
CRIMES

## **GPA AAC Inaugural Session: Building a Network with an Eye on Ukraine**

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### **Session Summary**

The aim of the inaugural meeting of the Global Parliamentary Alliance Against Atrocity Crimes (GPA AAC) was to present the initiative, provide an overview of what is happening in Ukraine, and start a discussion on building a network to identify policy responses to the ongoing atrocities being committed in Ukraine. MIGS and the Konrad Adenauer Stiftung see parliamentarians as having an important role in enforcing the Genocide Convention, trying to move the yardsticks of atrocity prevention, and holding government to account. This work is only strengthened by working bilaterally with other MPs and legislators.

The first session, “Building a Network with an Eye on Ukraine”, had four expert speakers and twenty-five civil society representatives and policymakers in attendance. The event was hosted under Chatham House Rules. Speakers gave a statement on the ongoing situation in Ukraine and their vision for the GPA AAC, followed by a general discussion with all participants.

#### **Spotlight on the crimes committed by Russia**

At the start, the point was made that we are seeing an internationalization and an intensification of mass atrocity crimes. One speaker stated that “This is the greatest threat to the global legal order since the end of the Second World War, this threat to human security, this assault on the political independence and territorial integrity of Ukraine, we can no longer say that we do not know what is happening. We know and we must act.”

Speakers referred to the report published by the Raoul Wallenberg Center for Human Rights and Newlines Institute titled [“An Independent Legal Analysis of the Russian Federation’s Breaches of the Genocide Convention in Ukraine and the Duty to Prevent”](#), which concludes that Russia is in Breach of the 1948 Genocide Convention. The report makes three compelling determinations: 1) Russia has been engaged in the direct and public incitement to genocide. The very incitement to genocide constitutes a crime under the Genocide Convention, whether or not acts of genocide follow. 2) Russia is committing mass atrocities, war crimes and crimes against humanity in Ukraine. It constitutes a pattern of mass atrocities from which an inference of a genocidal intent to commit genocide can be inferred; 3) This should trigger the legal duty of all states to prevent genocide under Article 1 of the Genocide Convention.

Citing the Rome Statute, a participant provided an overview of atrocity crimes committed by President Putin and his army. War crimes include attacks on civilians and civilian infrastructure, including health facilities and schools. Crimes against humanity include, murder, enslavement, deportation, forcible transfer, population imprisonment or other severe deprivation of physical liberty, and rape. “These are not single or unrelated incidents, but part of a widespread and systematic attack directed against the civilian population.”

One participant disagreed with some of these insights, arguing that the intention of this war “is not to do away with the Ukrainian people” but to destroy Ukraine and to make it inhabitable and expensive for anyone in Europe to build it up.

Due to the increased shelling of homes, markets, playgrounds, hospitals, and other civilian infrastructure, more than 600 hospitals and health facilities have been damaged or destroyed in Ukraine by Russia. At least 1,888 schools and educational facilities, including universities, have either been damaged or destroyed completely. One expert argued that these acts are done with the purpose of making people flee. If we look at the numbers, almost 6 million people have been registered as refugees. Meanwhile, at least 7,000,000 Ukrainians are internally displaced in Ukraine.

- **Preventing impunity**

A major concern mentioned by all participants is the risk of impunity. One speaker stated that “the biggest threat to international security is our inaction and impunity for such atrocities as we’ve seen now in Ukraine.”

Everyone agreed that there is no time to lose: “We now face a defining moment and of course that is the war in Ukraine. We must make sure that this terrible horrific war does not also represent the deathbed of accountability for atrocity crimes,” one speaker said.

“Over the last five months, we also have seen evidence of genocide, certainly of the serious risk of genocide but also of incitement to commit genocide, if not more,” one speaker said and reminded that once a serious risk of genocide is identified, a state should act and “We don’t need to wait until all elements of crime of genocide are there” since there is the duty to prevent, in accordance with Article 1 of the Genocide Convention and in accordance with the jurisprudence of the International Court of Justice from 2007. It was lamented that we have not seen a forceful response to address the serious risk of genocide, but hopes that the alliance will provide, “a springboard for responses to such atrocities.”

Participants were also concerned by the decline in interest and sense of outrage in Russia’s invasion of Ukraine. One speaker warned that it was “this impunity, this indifference and incentivization of impunity with respect to Russia’s invasion of Chechnya, Georgia, its annexation of Crimea, Crimea, its invasion in Syria.” Furthermore, “our absence of outrage at the massive domestic repression only further incentivizes both the domestic aggression and the international criminality and mass atrocity crimes.”

All agreed that impunity would lead to more crimes: “Impunity has bred further atrocities everywhere. It is an extraordinarily cynical calculation by perpetrators that not only will they get away with what they are doing, but that war crimes are an extremely successful means to achieve what it is that they want to achieve”.

Participants agreed that the conflict in Ukraine will be decided by attrition and patience. One participant noted that President Putin counts on controlling public opinion and suppressing opposition for longer. The Russian president is determined to split the UN and NATO over several issues, including the accession of Finland and Sweden, sanctions, and the reconstruction of Ukraine. Support for forceful action and

sanctions is already waning among the public and the political establishment in Germany and France, especially since they are feeling the impact at home in terms of energy costs.

- **The crime of aggression and current legal limitations**

While the International Criminal Court (ICC) is looking into the atrocities perpetrated in Ukraine, including war crimes, crimes against humanity and the crime of genocide, the ICC lacks jurisdiction for the crime of aggression. Ukrainian MEPs have called on the EU to set up a special international tribunal to punish the crime of aggression. The initiative is supported by former Prime Minister Gordon Brown and Professor Philippe Sands. However, one speaker lamented the lack of political will to establish such an ad hoc tribunal, despite the support of Baltic states. “I hope that there will be more political will or will work towards building this political will to address all the atrocities that we've seen.”

One participant noted that a proposal has been made to bring the jurisdictional component more in line with the other three crimes. If accepted, it would enable the ICC to have jurisdiction over crimes of aggression by non-party states. The proposal would enable the state that is a state party and has ratified the complete amendments to benefit from the protection over the crime of aggression, even if it's attacked by a state which is not a party to the Rome Statute.

There are efforts to establish a special international tribunal for the crime of aggression, which Ireland as President of the Council of Europe said they would support. Parliamentarians should support Ireland's efforts. Other efforts to be inspired by the International Independent Partial Mechanism for Syria, which is a good example of what the UN's General Assembly can do. We should advocate for a similar mechanism for Ukraine.

One participant underlined other important limitations. Indeed, the votes of the General Assembly and expert opinions published in different media forums show that the approach to hold alleged Russian perpetrators accountable for the crime of aggression at an international court does not have the support of more than one half of the global population. While non-democratic governments do not directly represent their citizens, these officials carry out the government policies without distress.

Finally, one participant underlined that experts on international law and mass atrocities need to listen to questions related to double standards in applying international criminal law, the lack of scientific proof that accountability for war crimes in the past influenced the outcome of a conflict or the behaviour of perpetrators, the disappointment and traumatization of victims when alleged perpetrators walk free from the ICC, the lack of any central enforcement power for violations of international law, and the ability of individual states to change their legal obligations based on their behaviour.

- **Documenting war crimes**

Speakers wanted to draw attention to the incredible work of Ukrainian authorities, UN teams, the media, and various countries who are documenting atrocities. Currently estimates are that at least 23,000 war crimes investigations are taking place. This includes the bombing of health care facilities, forced deportation (filtration), and gender-based violence.

It was stressed that it is important that we make sure 1) that all this documentation and cataloguing of evidence is put to good use and 2) that there is coordination between various authorities, so there is no duplication and that all this documentation will at some point be utilized to ensure that Russia is held to account.

Two participants noted that it is important that we recognize that justice is not a moral luxury but a right for survivors, victims, and their families. We therefore need a victim-centred approach to justice, they argued. It's also unique that Ukraine is conducting their own investigations and we need to see these investigations supported and aided through expertise, including forensic expertise, but also legal expertise by numerous states.

It's equally important to see that all the national prosecutors who have launched their own investigations are doing it together with the Ukrainian prosecutor and they're doing so under the auspices of universal jurisdiction in their own country.

- **The role of GPAAAC**

On the need for parliamentarians to be engaged and the need to establish the GPAAAC, one speaker described it as “a strategic necessity, a moral imperative for the preventing and combatting of mass atrocity and the breaches of the Genocide Convention.” The speaker believes that GPAAAC can help develop a comprehensive legal strategy to support the establishment of a hybrid tribunal for the crime of aggression, it can support the establishment of an Inter-agency Coordinating Group at the governmental level (involving all the various departments of government that are engaged on combatting mass atrocity crimes committed in Ukraine), and can support public educational efforts to counter Russian misinformation and disinformation, as well as direct and public incitement to genocide: “I think it's very important that the parliamentary democracies act in an ongoing educational engagement with civil society in that regard.”

During the discussion, it was mentioned that the International Bar Association's Human Rights Institute and the Ukraine Bar Association are planning to organize a conference to address the issue of accountability for Ukraine and any gaps and what else needs to be done and trying to work towards a blueprint. GPAAAC could play a role in this conference.

One of the participants noted that the network could make an important contribution if it brought together representatives from different countries and political systems to discuss openly and profoundly the differences in responding to mass atrocities between different countries and regions. In order to be successful, international response needs to bridge divides caused by different legal interpretation, perceived double standards and institutional limitations and find ways to cooperate pragmatically in the common interest in saving lives. Parliamentarians are in a good position to bridge divisions between legal experts, policymakers, experts, and civil society, and could establish a network of solidarity between populations directly. It is therefore important to include not only experts in the initiative and in the efforts towards accountability and legal responses, but also the wider population, including Ukrainians. This is particularly important as the attention to the crisis is waning.

**Resources Mentioned:**

Oxford Institute for Ethics, Law, and Armed Conflict. [“Anchoring Accountability for Mass Atrocities: The Permanent Support Needed to Fulfil UN Investigative Mandates.”](#) May 2022.

Parliamentarians for Global Action. [“Statement of the Ecocide Alliance On Environmental Crimes in Ukraine.”](#) 31 May 2022.

Parliamentarians for Global Action. [“Proposal to Amend Article 15bis of the Rome Statute on the Crime of Aggression.”](#) 17 July 2022.

Senate of Canada. [“Debate of the Senate, Senate Sitting n.37, Official Report, Thursday, April 28, 2022”](#)  
Video: [“Senate sitting No. 37, Thursday, Apr 28, 2022.”](#)

United States Department of State. [“2022 Report to Congress Pursuant to Section 5 of the Elie Wiesel Genocide and Atrocities Prevention Act of 2018.”](#) 15 July 2022.

United States Congress. [“S.1158 - Elie Wiesel Genocide and Atrocities Prevention Act of 2018.”](#) 115th Congress (2017-2018)

United Nations General Assembly. [“International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011.”](#) 11 January 2017.