



“The Urgent Need to Align the ICC’s Jurisdiction over the Crime of Aggression with the Court’s Jurisdiction over its Other Core Crimes”: Statement by the Global Institute for the Prevention of Aggression (GIPA) on International Justice Day 2024

July 17, 2024 marks the 26th anniversary of the adoption of the Rome Statute of the International Criminal Court (ICC) by a United Nations Conference of Plenipotentiaries that established the first *permanent* international tribunal for the most serious crimes of concern to the international community as a whole. July 17, 2024 also marks the 6th anniversary of the activation of the ICC’s exercise of jurisdiction over the crime of aggression.

One of the historic achievements of the Rome Statute was that, in the absence of a UN Security Council referral, the Rome Statute provides the ICC with jurisdiction over genocide, crimes against humanity and war crimes, where *either* the territorial State *or* the State of nationality of the alleged perpetrator has accepted the ICC’s jurisdiction.

While the 1998 Rome Statute included the **crime of aggression** as one of the four crimes over which the ICC has jurisdiction, the exercise of the Court’s jurisdiction over aggression was postponed until States could agree on the adoption of amendments defining the crime and setting out conditions for the Court’s exercise of jurisdiction over it.

In 2010, the first Review Conference of the Rome Statute was held in Kampala, Uganda, and the **definition of the crime of aggression** was added as **Article 8 bis** of the Rome Statute by a consensus decision of States Parties. The definition makes those in a position effectively to exercise control over or to direct the military action of a State individually criminally responsible for acts of aggression which, by their character, gravity and scale, constitute a manifest violation of the UN Charter. In this way, the crime of aggression provides a critical means through which the most serious violations of the prohibition of the use of force – the keystone of the international legal order – can be enforced.

Respecting the ICC’s independence, States Parties further agreed that the ICC may exercise its jurisdiction over *the crime of aggression* independent of whether the UN Security Council has previously determined that *an act of aggression* has been committed by a State (Articles 15 *bis* (8) and 15 *ter*).

At the same time, States Parties adopted provisions governing the Court’s exercise of jurisdiction over the crime of aggression that deviated from the jurisdictional regime applicable to its other core crimes. In particular, **Article 15 bis** uniquely and unfairly prevents the ICC from exercising jurisdiction over any crime of aggression involving a non-State Party, including when nationals of non-State Parties are the alleged perpetrators, and it allows States Parties to opt out of the Court’s jurisdiction over the crime of aggression. In this way, the Court’s jurisdiction over the crime of aggression is severely compromised compared to its jurisdiction over the other core crimes. This is problematic as it limits the protection from aggression that would otherwise be available to ICC States Parties and their populations by virtue of the Court’s general jurisdictional regime.

The recent escalation and future threat of acts of aggression in the international arena has dramatically highlighted the need to align the ICC's jurisdiction over the crime of aggression with its jurisdiction over genocide, crimes against humanity and war crimes. All States Parties have a strong interest in ensuring that their sovereignty, territorial integrity and political independence are not violated by acts of aggression that constitute manifest violations of the UN Charter. The people of all States Parties deserve protection from the crime of aggression – not least because the crime of aggression generally leads to the commission of other Rome Statute crimes.

In this context, the Global Institute for the Prevention of Aggression (GIPA) welcomes the continued commitment of the Assembly of States Parties (ASP) to the Rome Statute to **review the aggression amendments** seven years after their entry into force, namely, **by 17 July 2025**.

GIPA calls on all States Parties to the Rome Statute of the ICC to:

- I. **Take action without delay to negotiate and agree on amendments to Article 15 *bis* of the Rome Statute that align the ICC's jurisdiction over the crime of aggression with its jurisdiction over the other core international crimes.** As evidenced by recent and ongoing acts of aggression, the crime of aggression is not an “obsolete crime” and can produce mass-victimization of a magnitude that is comparable, if not worse than the victimization resulting from the other core crimes. GIPA has proposed model amendments to this end, which can be found [here](https://crimeofaggression.info/wp-content/uploads/GIPA-model-amendment-proposal_9-September-2023.pdf) (https://crimeofaggression.info/wp-content/uploads/GIPA-model-amendment-proposal_9-September-2023.pdf)

- II. **Ensure that amendments to Article 15 *bis* reflect the fundamental principles of international criminal law**, including the equality of all individuals before the law, thereby helping to fulfill the object and purpose of the Rome Statute as stated in the Statute's preamble: *to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole and thus to contribute to the prevention of such crimes.*

BACKGROUND. About GIPA and its Proposal to Amend Art. 15*bis*

The Global Institute for the Prevention of Aggression believes it is critical to strengthen the ICC's jurisdiction over the crime of aggression. This is why GIPA published a [proposal](#) in September 2023 to amend the conditions under which the ICC can exercise jurisdiction over the crime of aggression. The proposal has been thoroughly discussed among experts on the crime of aggression and has the objective of bringing the ICC's jurisdiction over the crime of aggression in line with the Court's jurisdiction over genocide, crimes against humanity and war crimes. To learn more about the reasons for the proposed amendments, see [here](#).

GIPA's experts are available for comments and inquiries from journalists. Please contact:

- Prof. Jennifer Trahan (NYU-Center for Global Affairs); Convenor, GIPA; T: +1-917-359-3765; Jt487@nyu.edu
- Dr. David Donat Cattin (NYU-Center for Global Affairs); Member, Council of Advisers, GIPA; T: +1-646-287-5479; ddc4@nyu.edu
- Dr. Carrie McDougall (University of Melbourne); Member, Council of Advisers, GIPA; T: +61419235945; c.mcdougall@unimelb.edu.au
- Dr. Astrid Reisinger Coracini (University of Vienna); Member, Council of Advisers, GIPA; T: +43/676/729-4647; astrid.reisinger-coracini@univie.ac.at.