

# Holding Heads of State Accountable: The Case of President Lukashenko's Aiding and Abetting President Putin's Crime of Aggression Against Ukraine

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## **Executive Summary**

This background paper provides an analysis of Belarusian President Aleksandr Lukashenko's aiding and abetting Russia's crime of aggression in its invasion of Ukraine. This paper relies upon the Rome Statute Articles 8 *bis* and 25(3)(c), which allow for the prosecution of aiding and abetting the crime of aggression. We recognize that the International Criminal Court itself ("ICC") is unlikely to exercise jurisdiction over these crimes. Instead, we use the Rome Statute definition for a future international tribunal to consider.

This analysis is founded upon open-source research and the collection of evidence performed by an inter-collegiate investigative team from across the United States. The contents of this document will provide the reader with a brief, yet important, historical overview of the Republic of Belarus and its relationship with the Russian Federation. Evidence of President Lukashenko's deep and active involvement with Russia's war in Ukraine, such as staging troops and weapons, will likewise be provided. Further, this paper will articulate the international legal standard for aiding and abetting the crime of aggression, primarily focusing on the Rome Statute and customary international law.

This analysis provides context for a draft sample indictment, contained in Appendix A, which charges Aleksandr Lukashenko with aiding and abetting Vladimir Putin's invasion of Ukraine. This paper may assist the international community in considering its response to international crimes perpetrated by Heads of State now and in the future.

This background paper and draft indictment of President Lukashenko would not have been possible without the tireless work of mentors and volunteers with the Ukraine Accountability Project. Special thanks is given to Professor David Crane, Fred Bryant, Phoebe Juel, Professor Sara Dillon, Mia Bonardi, Kate Powers, Kate Metzger, Victor Ivan, Alexandra M. Lane, Sage J. Grant, Lindsey Griffin, Omar Hajajra, Bryan Sicard, Isaiah Hutchinson, and Annika Stimac.

The war against Ukraine requires continued observation, discussion, and analysis. The Global Accountability Network's Ukraine Accountability Project will continue its investigations and analyses of crimes committed in Ukraine.

## **I. Introductory Remarks by Professor David M. Crane<sup>1\*</sup>**

In recent years, the world has witnessed numerous instances of heads of state aiding and abetting international crimes, with devastating consequences for global peace and security. One such case is the assistance provided by President Aleksandr Lukashenko of Belarus to President Vladimir Putin's aggression against Ukraine. It is imperative that heads of state are held accountable for their actions, as no one is above the law. Other heads of state who aid and abet Russian aggression are the Presidents of Iran, North Korea, and even China. They open themselves up to criminal and political liability.

President Lukashenko's support for President Putin's actions in Ukraine represents a flagrant violation of international law. From providing military assistance to allowing Russian troops to use Belarusian territory as a staging ground for their operations, Lukashenko has actively facilitated Putin's aggression. This aid has resulted in untold suffering for the people of Ukraine and has destabilized the entire region.

It is essential to recognize that no one, regardless of their position of power, is immune from prosecution for international crimes. The principle of individual criminal responsibility, as enshrined in international law, holds that individuals who commit or aid and abet such crimes must be held to account. This includes heads of state who are aiding and abetting in the commission of these crimes.

To ensure accountability, it is crucial that the international community consider acting against those responsible for aiding and abetting international crimes. This may include targeted sanctions, diplomatic isolation, or even referral to a future international tribunal for prosecution. By holding heads of state accountable for their actions, we send a clear message that impunity will not be tolerated and that all individuals are subject to the rule of law. We have done this before by holding President Charles Taylor accountable for international crimes. The UN Special Court for Sierra Leone laid down the cornerstone that heads of state who commit international crimes while in office cannot be shielded by head of state immunity.

Only by ensuring that those who commit or facilitate international crimes are held accountable can we hope to prevent such atrocities from being perpetuated in the future and uphold the principles of justice and accountability on the world stage. Strongmen around the world are watching like crocodiles to see how the international community handles the crime of aggression committed by President Vladimir Putin, as well as the aiding and abetting of aggression by President Lukashenko of Belarus among other heads of state. The model indictment found in the appendix should aid the international community in their thinking about accountability and warn President Lukashenko that he is not above the law.

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<sup>1\*</sup> Professor David M. Crane, author of *Every Living Thing: Facing Down Terrorists, Warlords, and Thugs in West Africa--A Story of Justice*, was the founding Chief Prosecutor of the Special Court for Sierra Leone from 2002 to 2005 after being appointed by Secretary General of the United Nations, Kofi Annan. He served with the rank of Under-Secretary General and indicted the President of Liberia, Charles Taylor, the first sitting African head of state in history to be held accountable. Prior to this position, he served over 30 years in the U.S. government. He holds a J.D. from Syracuse University, a M.A. in African Studies and a B.G.S. in History from Ohio University.

## II. Historical Relationship between President Lukashenko and Russia

President Lukashenko's involvement with Vladimir Putin and the Russian Federation has been long-standing and of central importance to the political and military alliance between Belarus and Russia. This section discusses the history of this alliance, the development of which mirrors Lukashenko's own political dominance.

### A. *Political Ties between President Lukashenko and Russia*

A veteran of the Soviet Army, Aleksandr Lukashenko won the first-ever presidential election in Belarus in 1994.<sup>2</sup> As a new president, Lukashenko turned towards Russia rather than the West.<sup>3</sup> The arrangement was mutually beneficial to then-Russian President Boris Yeltsin, who relied heavily on Lukashenko for political support.<sup>4</sup>

Between May 1997 and December 1999, Presidents Lukashenko and Yeltsin created a series of agreements to solidify the ties between their states.<sup>5</sup> On 23 May 1997, Belarus and Russia adopted The Charter of the Union.<sup>6</sup> This document called for a “coordinated foreign and defense policy, joint citizenship, and a common market for goods, services, capital, and labor” between Belarus and Russia.<sup>7</sup> On 8 December 1999, Belarus and Russia signed The Treaty on the Establishment of the Union State<sup>8</sup> that “set up a legal basis for a wide-ranging alliance that spanned economic, information, technology, agriculture, and border security” and governing bodies of the Union State.<sup>9</sup>

During his first presidential term, President Lukashenko also moved to cement his own domestic political power. On 24 November 1996, Belarus adopted amendments to the Constitution to extend presidential powers.<sup>10</sup> These changes, along with Lukashenko's harsh treatment of opposition figures and dissidents, earned him the title of “Europe's last dictator.”<sup>11</sup>

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<sup>2</sup> See *Belarus Unrest Explained*, FIN. TIMES (2020), <https://video.Aleksandrstreet.com/watch/belarus-unrest-explained>.

<sup>3</sup> See Andrew Wilson, *Building Authoritarianism: Lukashenka's First Term*, in BELR. 168-93 (2011).

<sup>4</sup> *Id.* at 168.

<sup>5</sup> See David Hoffman, *As Yeltsin Totters, Russia, Belarus Sign Deal*, WASH. POST (9 Dec. 1999), <https://www.washingtonpost.com/archive/politics/1999/12/09/as-yeltsin-totters-russia-belarus-sign-deal/9e1d2840-f8fe-4098-aeb3-adfd73bf565d/>.

<sup>6</sup> See *Treaties and International Agreements Registered in September 2000*, U.N. TREATY SERIES (2000), <https://treaties.un.org/doc/Publication/UNTS/Volume%202121/v2121.pdf>.

<sup>7</sup> Bob Deen, et al., *Historical and Legal Context of the Union State of Russia and Belarus*, CLINGENDAEL REP. (Aug. 2021), <https://www.clingendael.org/pub/2021/an-ever-closer-union/2-historical-and-legal-context/>.

<sup>8</sup> See *Treaties and International Agreements Registered in September 2000*, *supra* note 6.

<sup>9</sup> See Mariya Knight, et. al., *Lukashenko offers nuclear weapons to nations willing 'to join the Union State of Russia and Belarus'*, CNN (28 MAY 2023), <https://edition.cnn.com/2023/05/28/europe/lukashenko-nuclear-weapons-belarus-russia-intl-hnk/index.html>

<sup>10</sup> See Eric R. Reed, *Descent into Authoritarianism: Barriers to Constitutional Rule in Belarus*, 28 HASTINGS INT'L & COMP. L. REV. 147 (2004).

<sup>11</sup> See, e.g., BRIAN BENNETT, *THE LAST DICTATORSHIP IN EUROPE: BELARUS UNDER LUKASHENKO* (2011).

President Lukashenko won subsequent presidential elections in 2001, 2006, 2010, and 2015.<sup>12</sup> On 9 August 2020, President Lukashenko was declared the winner for the sixth time, which was followed by mass protests due to electoral interference and the government's poor handling of the COVID-19 pandemic.<sup>13</sup> Various international human rights organizations and foreign governments commented on the violent suppression of protests, but Russia continued to provide Lukashenko with support.<sup>14</sup>

### B. *Military Cooperation between Belarus and Russia*

Lukashenko's relationship with Russia was strained during Russia's invasion of Ukrainian territory in 2014, when he attempted to distance himself and elected not to recognize Russian annexation of Crimea.<sup>15</sup> However, since the 2020 election and economic crises in Belarus, Lukashenko turned toward Putin for support.<sup>16</sup> As a result of his increasing dependence on Russia, Lukashenko has made significant concessions: deepening the Union State ideology, revoking Belarus' neutral status on Crimea by recognizing it as "a de facto part of Russian territory," and through providing considerable military support and intensifying joint exercises.<sup>17</sup>

Belarus and Russia issued two iterations of the Union State's military doctrine in 2001 and in 2021, respectively.<sup>18</sup> The first doctrine called for increased integration of the states' armed forces and led to joint military exercises.<sup>19</sup> In November 2021, just three months before Russian troops invaded Ukraine, Belarus and Russia approved an updated military doctrine.<sup>20</sup> This new version claims as its justification the "growing negative processes in global and regional security," and cites as threats "the opposition on the part of some international organizations and foreign states to the development of the Union State," attempts to erode its culture, and the buildup of NATO's "force potential" along its external borders.<sup>21</sup> Released in February 2022, the doctrine provides for enhanced military cooperation between Russia and Belarus and sets out provisions for joint decisions in wartime.<sup>22</sup>

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<sup>12</sup> *Aleksandr Lukashenko*, ENCYC. BRITANNICA (last updated 19 Oct. 2023), <https://www.britannica.com/biography/Aleksandr-Lukashenko>.

<sup>13</sup> See Samantha LeJeune, "Europe's Last Dictator": Police Brutality and Human Rights Violations in Belarus, 47 N.C. J. INT'L L. 591, 594-97 (2022).

<sup>14</sup> See, e.g., *Belarus: Violence, Abuse in Response to Election Protests*, HUM. RTS. WATCH (11 Aug. 2020), <https://www.hrw.org/news/2020/08/11/belarus-violence-abuse-response-election-protests>.

<sup>15</sup> See Alla Leukavets, *The Role of Belarus in the Ukrainian Crisis*, WILSON CTR. (4 April 2022), <https://www.wilsoncenter.org/blog-post/role-belarus-ukrainian-crisis>.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *New Military Doctrine of the Union State of Belarus and Russia*, POL. INST. INT'L AFFS. (15 Feb. 2022), <https://www.pism.pl/publications/new-military-doctrine-of-the-union-state-of-belarus-and-russia>. The November 2021 doctrine was made public in February 2022.

<sup>19</sup> *Id.*

<sup>20</sup> See *New Union Military Doctrine of Belarus and Russia Revealed*, BELSAT (10 Feb. 2022), <https://belsat.eu/en/news/10-02-2022-new-union-military-doctrine-of-belarus-and-russia-revealed>. See also Roger McDermott, *New Belarus-Russia Military Doctrine 2021 and Allied Resolve 2022 (Part One)*, JAMESTOWN FOUND. (9 Feb. 2022), <https://jamestown.org/program/new-belarus-russia-military-doctrine-2021-and-allied-resolve-2022-part-one/>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

### III. Belarus' Connections to Russia's 2022 Invasion of Ukraine

Aleksandr Lukashenko authorized the staging of Russian military forces and weapons systems. In early 2022, Belarus and Russia conducted joint military exercises in Belarus, which facilitated the subsequent invasion of Ukraine.<sup>23</sup>

#### A. *Staging of Russian Forces Prior to Invasion*

Buildup of Russian forces increased progressively throughout 2021.<sup>24</sup> By November 2021, satellite images showed buildup of Russian assets near the Ukraine border, with estimates of approximately 100,000 troops.<sup>25</sup> As a result of this buildup, NATO has put its forces on standby, and increased its naval and aerial presence in NATO's eastern flanks.<sup>26</sup> Subsequently, Lukashenko announced military drills on 17 January 2022.<sup>27</sup> Belarusian and Russian militaries then began joint exercises as part of Operation Allied Resolve.<sup>28</sup>

Russia's Defense Ministry claimed the exercises would include "suppressing and repelling against external aggression during a defensive operation."<sup>29</sup> As part of this exercise, Russia sent approximately 30,000 military personnel to Belarus.<sup>30</sup> Although initially scheduled to last for ten days, Belarus's Defense Minister Viktor Khrenin announced on 20 February 2022, that the joint military exercises would continue and Russian troops would remain in Belarus.<sup>31</sup>

On 24 February 2022, Russian troops invaded Ukraine and were "allowed passage into Ukraine by Belarusian border guards," allowing the Russian troops to seize control of the Chernobyl nuclear power plant on the same day and gain ground close to Kyiv.<sup>32</sup> Presidents Lukashenko and Putin spoke on the telephone soon after the invasion began.<sup>33</sup> Although Lukashenko stated in an operational meeting on 24 February 2022 that he did not intend for Belarusian forces to participate in the operation in Ukraine, he admitted that they would participate "if it is necessary for Belarus and Russia."<sup>34</sup> Consistent with the doctrine of the Union

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<sup>23</sup> Shaun Walker, *Russia and Belarus begin military drills near Belarusian border with Ukraine*, THE GUARDIAN (10 FEBRUARY 2022), <https://www.theguardian.com/world/2022/feb/10/russia-belarus-military-drills-near-belarusian-border-ukraine>.

<sup>24</sup> *Timeline: The events leading up to Russia's invasion of Ukraine*, REUTERS (1 March 2022), <https://www.reuters.com/world/europe/events-leading-up-russias-invasion-ukraine-2022-02-28/>

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> *Russian Forces Arrive in Belarus for Joint Military Drills*, REUTERS (17 Jan. 2022), <https://www.reuters.com/world/europe/russia-belarus-plan-joint-military-drills-february-lukashenko-2022-01-17/>.

<sup>28</sup> Id.

<sup>29</sup> See Bill Chappell, *Russia Holds a Massive Military Exercise with Belarus, Raising Concerns in Ukraine*, NPR (Feb. 10, 2022), <https://www.npr.org/2022/02/10/1079888622/russia-military-exercise-belarus-ukraine>.

<sup>30</sup> McDermott, *supra* note 26.

<sup>31</sup> Ticalau, *supra* note 32.

<sup>32</sup> *Belarusians Wary of Being Drawn into Russia's War in Ukraine*, PBS (26 Apr. 2023), <https://www.pbs.org/newshour/world/belarusians-wary-of-being-drawn-into-russias-war-in-ukraine>.

<sup>33</sup> Amanda Coakley, *Lukashenko Is Letting Putin Use Belarus to Attack Ukraine*, FOREIGN POL'Y (24 Feb. 2022), <https://foreignpolicy.com/2022/02/24/russia-ukraine-war-belarus-chernobyl-lukashenko/>.

<sup>34</sup> *Operational Meeting with the Military*, PRESIDENT REP. BELR. (24 Feb. 2022), <https://president.gov.by/ru/events/operativnoe-soveshchanie-s-voennymi>.

State, President Putin also stated that any attack on Belarus would be considered an attack on Russia.<sup>35</sup>

### *B. Launching Attacks from Belarus and Stationing of Nuclear Weapons*

On 27 February 2022, Lukashenko ordered the passage of a constitutional referendum that allowed Russian troops and nuclear weapons to be permanently stationed on Belarusian territory.<sup>36</sup> Additionally, the amendment gave President Lukashenko “lifetime immunity from prosecution to the president once he left office.”<sup>37</sup> A subsequent law, signed at the beginning of 2024, reinforced the protections provided to Lukashenko and his family indefinitely.<sup>38</sup>

On the same day as the passage of the constitutional referendum revoking Belarus’ neutral nuclear status in February 2022, Lukashenko stated that “two to three missiles” were launched by Russian forces from Belarus into Ukraine, alleging that it was necessary because Ukraine planned to attack Belarus within “several minutes.”<sup>39</sup> According to a senior United States defense official, by March 2022, about seventy strikes on Ukraine had originated from Belarus out of roughly 480 total strikes.<sup>40</sup> In October 2022, implementing the updated military doctrine with Russia, Aleksandr Lukashenko announced a Regional Group of Forces would be formed in Belarus.<sup>41</sup>

On 25 June 2022, Putin announced in a meeting with Lukashenko that Russia would provide Belarus with missile systems capable of carrying nuclear weapons.<sup>42</sup> The two states agreed on 26 March 2023 to station Russian tactical nuclear weapons in Belarus,<sup>43</sup> and on 17 June 2023, Putin confirmed that the nuclear weapons had arrived in Belarus.<sup>44</sup>

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<sup>35</sup> *Putin Tells Poland any Aggression against Belarus is an Attack on Russia*, REUTERS (22 Jul. 2023), <https://www.reuters.com/world/europe/putin-tells-poland-any-aggression-against-belarus-is-attack-russia-2023-07-21/>.

<sup>36</sup> *Belarus referendum approves proposal to renounce non-nuclear status - agencies*, REUTERS (28 Feb. 2022), <https://www.reuters.com/world/europe/launchpad-russias-assault-ukraine-belarus-holds-referendum-renounce-non-nuclear-2022-02-27/>

<sup>37</sup> *Id.*

<sup>38</sup> See Yuras Karmanau, *President of Belarus gives himself immunity from prosecution and limits potential challengers*, ASSOCIATED PRESS (4 Jan. 2024), <https://apnews.com/article/lukashenko-belarus-immunity-presidential-election-opposition-b699c252baa2f6f235d06f027d1d6b87>

<sup>39</sup> See Ticalau, *supra* note 32, at 7 and *Ukrainian Official Says Missiles Launched from Belarus to Ukraine*, REUTERS (27 Feb. 2022), <https://www.reuters.com/world/europe/ukrainian-official-says-missiles-launched-belarus-ukraine-2022-02-27/>.

<sup>40</sup> *Senior Defense Official Holds a Background Briefing*, U.S. DEP’T DEF. (3 Mar. 2022), <https://www.defense.gov/News/Transcripts/Transcript/Article/2954139/senior-defense-official-holds-a-background-briefing/>.

<sup>41</sup> See *Russia-Belarus military cooperation*, *supra* note 30.

<sup>42</sup> *Putin Promises Belarus Nuclear-Capable Missiles to Counter ‘Aggressive’ West*, REUTERS (25 June 2022), <https://www.reuters.com/world/europe/russia-will-supply-belarus-with-iskander-m-missile-systems-putin-2022-06-25/>.

<sup>43</sup> Coakley, *supra* note 33.

<sup>44</sup> See *Ukraine War: Putin Confirms First Nuclear Weapons Moved to Belarus*, BBC NEWS (17 June 2023), <https://www.bbc.com/news/world-europe-65932700>.



Over the course of Russia’s 2022 invasion of Ukraine, Belarus has permitted Russian forces to use Belarusian infrastructure for military purposes.<sup>45</sup> At the outset of the invasion, Belarus made its air defense and traffic control systems and fueling stations available to Russian forces.<sup>46</sup> Belarus also allowed Russia to use Belarusian territory to provide logistical support and to station Russian aircraft, in addition to supplying ammunition, tanks and armored vehicles.<sup>47</sup> As of April 2024, Russian troops were still using Belarusian “military infrastructure, including bases, supply chains, and railroads.”<sup>48</sup>

#### **IV. Legal Framework of Accountability**

This section addresses the international legal standard of accountability for aiding and abetting the crime of aggression under Rome Statute Articles 8 *bis* and 25(c)(3).

##### *A. Aiding and Abetting the Crime of Aggression*

##### 1. Rome Statute of the International Criminal Court

Article 8 *bis* of the Rome Statute defines the elements of the crime of aggression. Under Article 8 *bis* of the Rome Statute, the “‘crime of aggression’ means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.”<sup>49</sup> Coupled with Article 25(3)(c), the Statute grants the Court jurisdiction over aiding and abetting the crime of aggression.<sup>50</sup> Relevant to Russia’s invasion, Article 8 *bis* (2)(a) of the Rome Statute establishes, in part, that “[t]he invasion or attack by the armed forces of a State of the territory of another State” qualifies as an act of aggression.”<sup>51</sup>

With regard to aiding and abetting such crimes, Article 25(3)(c) of the Rome Statute states that “a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person ... [f]or the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission.”<sup>52</sup>

##### 2. Jurisprudence of Aiding and Abetting in International Law

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<sup>45</sup> See Jakub Przetacznik, *Russia-Belarus military cooperation*, EUROPEAN PARLIAMENT (Feb. 2023), [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/739348/EPRS\\_ATA\(2023\)739348\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/739348/EPRS_ATA(2023)739348_EN.pdf)

<sup>46</sup> Coakley, *supra* note 33.

<sup>47</sup> Przetacznik, *supra* note 45.

<sup>48</sup> *Id.*

<sup>49</sup> *Rome Statute of the International Criminal Court*, ICC, <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

In addition to the appearance of aiding and abetting in the Rome Statute of the ICC, aiding and abetting has also appeared in the founding statutes of the modern international criminal tribunals. Article 7(1) of the Statute of the International Criminal Tribunal for the Former Yugoslavia (“ICTY”) provides that “[a] person who planned, instigated, ordered, committed or otherwise aided or abetted in the planning, preparation or execution of a crime . . . shall be individually responsible for the crime.”<sup>53</sup> Article 6(1) of the Statute of the International Criminal Tribunal for Rwanda (“ICTR”) includes identical language.<sup>54</sup>

The landmark prosecution of former President of Liberia Charles Taylor by the Special Court for Sierra Leone established that former heads of state would not enjoy immunity in certain international courts; and set out a clear standard for a finding of aiding and abetting international crimes.<sup>55</sup> The Appeals Chamber of the Special Court, in upholding the lower court’s conviction of Taylor, ruled that the required standard for such aiding and abetting was met when the defendant lent assistance to the armed forces committing the atrocities and that the assistance had a substantial effect on the commission of the crimes.<sup>56</sup>

It is now widely accepted that the actus reus of aiding and abetting is satisfied when an “aider and abettor carries out acts specifically directed to assist, encourage or lend moral support to the perpetration of a certain specific crime (murder, extermination, rape, torture, wanton destruction of civilian property, etc.), and this support has a substantial effect upon the perpetration of the crime.”<sup>57</sup> The person must have “knowledge that the acts performed assist [in] the commission of the specific crime of the principal.”<sup>58</sup>

Lukashenko’s conduct and actions as described above meet this international standard for aiding and abetting the crime of aggression.

## **V. Conclusion**

President Aleksandr Lukashenko provided Russia with vital support before and during its invasion of Ukraine. Lukashenko welcomed Russian armed forces into Belarusian territory, allowed them passage over the Belarusian border into Ukraine, and arranged for Russian weapons to be stored and deployed from Belarus. These facts amount to aiding and abetting the international crime of aggression.

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<sup>53</sup> *Updated Statute of The International Criminal Tribunal For The Former Yugoslavia*, United Nations (Sept. 2009), [https://www.icty.org/x/file/Legal%20Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf)

<sup>54</sup> *Statute of The International Tribunal for Rwanda*, United Nations, [https://legal.un.org/avl/pdf/ha/ictr\\_EF.pdf](https://legal.un.org/avl/pdf/ha/ictr_EF.pdf)

<sup>55</sup> Special Court for Sierra Leone, Appeals Chamber Judgement SCSL-03-01-A (26 Sept. 2013), available at <https://www.rscsl.org/Documents/Decisions/Taylor/Appeal/1389/SCSL-03-01-A-1389.pdf>

<sup>56</sup> *Id.*

<sup>57</sup> *Aiding and Abetting: International Residual Mechanism for Criminal Tribunals*, United Nations, <https://cld.irmct.org/notions/show/1033/aiding-and-abetting#>

<sup>58</sup> *Id.*

**SAMPLE INDICTMENT**

**THE PROSECUTOR**

**Against**

**ALEKSANDR LUKASHENKO  
PRESIDENT OF THE REPUBLIC OF BELARUS**

The Prosecutor charges:

**ALEKSANDR LUKASHENKO**

with **THE CRIME OF AGGRESSION AS DEFINED IN ARTICLES 8 *bis* AND 25(c)(3) OF THE ROME STATUTE AND IN VIOLATION OF RELATED INTERNATIONAL LAW** as set forth below:

**THE ACCUSED**

1. **ALEKSANDR LUKASHENKO** (“the **ACCUSED**”) was born on 30 August 1954, in Kopys, Orsha District, Vitebsk Oblast, in the Byelarusian Soviet Socialist Republic. The **ACCUSED** is also known as:

**ALEKSANDER GRIORYEVICH LUKASHENKO  
ALEKSANDR GRIGORIYEVICH LUKASHENKO  
ALYAKSANDR RYHORAVICH LUKASHENKA  
ALYAKSANDR LUKASHENKA  
ALIAKSANDR LUKASHENKA**

**GENERAL ALLEGATIONS**

2. At all times relevant to this Indictment, a state of armed conflict existed within Ukraine’s internationally recognized borders established by the “Law of Ukraine” on 4 November 1991. The armed conflict is characteristic of both an international armed conflict between the States of Ukraine and the Russian Federation and a non-international armed conflict between Ukraine and its regions of Donetsk and Luhansk, collectively referred to as the “Donbas.”
3. At all times relevant to this indictment, a nexus existed between the armed conflict and all acts or omissions charged with the crime of aggression as defined in Article 8 *bis* of the Rome Statute and United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974.
4. The official State militaries involved in this conflict include: the Armed Forces of Ukraine (“AFU”); the State Border Guard Services of Ukraine (“SBGSU”); the Armed Forces of the Russian Federation (“AFRF”); and elements of the Armed Forces of the Republic of Belarus (“AFB”).

5. Non-state combatants include the Donetsk People’s Militia (“DPM”), the Lugansk People’s Militia (“LPM”), and various mercenary groups.
6. “Civilian” or “civilian population” designates protected persons who take no active part in the hostilities, or who are no longer taking an active part in the hostilities.
7. In accordance with Articles 84 and 85 of the Constitution of Belarus, the President of the Republic of Belarus is the Commander in Chief of the Armed Forces.
8. The Security Council of Russia has direct control of the AFRF. Every decision of the Security Council of Russia is approved by the President of the Russian Federation, who implements and executes their decisions.
9. Belarus and Russia adopted The Charter of the Union on May 23, 1997, which established the Union State and includes the implementation of a coordinated foreign and defense policy.
10. In December 2001, Belarus and Russia issued versions of the military doctrine of the Union State of Belarus and Russia, that provide for joint military exercises and set up provisions for joint decisions in wartime and military cooperation between the two states.
11. In November 2021, Belarus and Russia approved an updated military doctrine, which provides for enhanced military cooperation between Russia and Belarus and sets out provisions for joint decisions in wartime.

#### **INDIVIDUAL CRIMINAL RESPONSIBILITY OF THE ACCUSED**

12. The Prosecutor repeats and realleges the allegations set forth in Paragraphs 1 through 11, which are associated by reference.
13. **ALEKSANDR LUKASHENKO**, the ACCUSED, last assumed the Office of the President of the Republic of Belarus on 20 July 1994. The ACCUSED is currently serving in his sixth term as President. At all times relevant to this Indictment, the ACCUSED has been the President of the Republic of Belarus.
14. In accordance with Articles 84 and 85 of the Constitution of the Republic of Belarus, the President of the Republic of Belarus is the Head of State, the Commander in Chief of the Armed Forces, oversees the Security Council of the Republic of Belarus, has the authority to take measures to protect the sovereignty and territory of the Republic of Belarus, signs international agreements, represents the Republic of Belarus in relations with other states and international organizations, and has authority with regard to foreign policy.
15. Article 79 of the Constitution of the Republic of Belarus grants the President immunity from arrest and prosecution within the Republic of Belarus.

16. In February 2022, in his capacity as President of the Republic of Belarus, **ALEKSANDR LUKASHENKO**, the ACCUSED, joined with the Russian Federation and its President, VLADIMIR VLADIMIROVITCH PUTIN, and acted in concert with Putin's objective to invade and destabilize Ukraine, to expand the territory of the Russian Federation, and to conduct organized armed attacks on the territory of Ukraine, the Ukrainian military forces and Ukrainian civilian population.
17. Article 25(3)(c) of the Rome Statute provides that a person shall be criminally responsible and liable for punishment of a crime within the jurisdiction of the International Criminal Court if he, for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission.
18. **ALEKSANDR LUKASHENKO**, the ACCUSED, by his acts or omissions, is individually criminally responsible for the crime alleged in this Indictment, which crime **ALEKSANDR LUKASHENKO**, the ACCUSED planned, instigated, ordered, committed, or in whose planning, preparation or execution **ALEKSANDR LUKASHENKO**, the ACCUSED otherwise aided and abetted VLADIMIR VLADIMIROVITCH PUTIN. This crime was within a joint criminal enterprise in which **ALEKSANDR LUKASHENKO**, the ACCUSED participated or was a reasonably foreseeable consequence thereof.
19. In addition, **ALEKSANDR LUKASHENKO**, the ACCUSED, while holding positions of superior responsibility and exercising command and control over his subordinates, is individually responsible for the criminal acts of his subordinates. **ALEKSANDR LUKASHENKO**, the ACCUSED, knew or had reason to know that subordinates were about to commit such acts or had done so and **ALEKSANDR LUKASHENKO**, the ACCUSED failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

## CHARGE

### Count 1: The Crime of Aggression<sup>59</sup>

20. The Prosecutor repeats and realleges the allegations set forth in Paragraphs 1 through 19, which are associated by reference.
21. At all times relevant to this Indictment, members of the Russian Federation and Belarusian armed forces and non-state combatants were supported and directed by, acted in concert with, and/or subordinate to, **ALEKSANDR LUKASHENKO**. **ALEKSANDR LUKASHENKO**, the ACCUSED aided and abetted Russian aggression by assisting in the armed attacks

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<sup>59</sup> Aiding and abetting is a form of liability in which the accused contributes to the perpetration of a crime, in this instance, the crime of aggression, that is committed by another person. See ICTY, Karadzic and Mladic (IT-95-5/18) Public Redacted Version of Judgement issued on 24 March 2016 - Volume I of IV Related Documents Judgement/Sentence Trial Chamber III, para. 574, <https://ucr.irmct.org/LegalRef/CMSTDocStore/Public/English/Judgement/NotIndexable/IT-95-5%2318/JUD270R0000481380.pdf>

throughout the territory of Ukraine, including, but not limited to: Kyiv, Northeastern Ukraine, Eastern Ukraine including the Donbas, and Southern Ukraine.

22. **ALEKSANDR LUKASHENKO**, the ACCUSED, at all times relevant to this Indictment, was legally empowered to authorize the Russian Federation to exercise control over and/or to direct the political or military actions of the Russian Federation in the Republic of Belarus.
23. In conjunction with the Russian Federation, **ALEKSANDR LUKASHENKO**, the ACCUSED, announced military drills in January 2022 and authorized the stationing of approximately 30,000 Russian troops in the Republic of Belarus.
24. In February 2022, **ALEKSANDR LUKASHENKO**, the ACCUSED permitted or authorized Russian troops to invade Ukraine across the borders of the Republic of Belarus.
25. **ALEKSANDR LUKASHENKO**, the ACCUSED, was directly involved in the planning, preparation, initiation and/or execution of the use of armed forces by the Russian Federation against the sovereignty, territorial integrity and/or political independence of Ukraine.
26. **ALEKSANDR LUKASHENKO**, the ACCUSED, directly aided the aggressive use of armed force by the Russian Federation in violation of the Charter of the United Nations.
27. Pursuant to the definitions of aggression and of aiding and abetting in the Rome Statute Articles 8 *bis* and 25(c)(3), respectively, the ACCUSED participated in numerous acts of aggression against Ukraine constituting collectively, and individually, the Crime of Aggression.
28. Additionally, pursuant to United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, which defines aggression, **ALEKSANDR LUKASHENKO**, the ACCUSED aided and abetted in numerous acts of aggression against Ukraine constituting collectively, and individually, the Crime of Aggression.
29. **ALEKSANDR LUKASHENKO**, the ACCUSED, and his subordinates provided material support to armed irregular groups and mercenaries within the territory of Ukraine.
30. In his sixth term as President of Belarus, **ALEKSANDR LUKASHENKO**, the ACCUSED, was aware of the factual circumstances that constitute a violation of the Charter of the United Nations and related international law.

By his acts or omissions in relation, but not limited to these events, **ALEKSANDR LUKASHENKO**, the ACCUSED, is individually criminally responsible for the crimes alleged below:

**Count 1: The Crime of Aggression, AS DEFINED IN ARTICLES 8 *bis* AND 25(c)(3) OF THE ROME STATUTE AND IN VIOLATION OF RELATED INTERNATIONAL LAW.**

Dated this JULY 2024

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The Prosecutor