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Crime of agression

Greens/EFA motion for resolution

Tabled by Barbara Lochbihler, Judith Sargentini, Ernest Maragall
on behalf of the Greens/EFA Group

The European Parliament,

– having regard to the Charter of the United Nations,

– having regard to Article 5 of the Rome Statute, which lists the crime of aggression as one of the core crimes under the International Criminal Court's jurisdiction,

– having regard to the Kampala Amendments to the Rome Statute, which were adopted at the Review Conference held in Kampala, Uganda, in 2010, with particular reference to Resolution RC/Res. 6, relating to the crime of aggression,

– having regard to EU Council Decision 2011/168/CFSP and to its reference to the Kampala Amendments,

– having regard to the revised Action Plan adopted on 12 July 2011 in line with Council Decision 2011/168/CFSP,

– having regard to its resolution of 19 May 2010 on the Review Conference on the Rome Statute of the International Criminal Court, in Kampala, Uganda(1),

– having regard to its resolution of 17 November 2011 on EU support for the ICC: facing challenges and overcoming difficulties(2),

– having regard to its resolution of 18 April 2012 on the Annual Report on Human Rights in the World and the European Union's policy on the matter, including implications for the EU's strategic human rights policy(3),

– having regard to its resolution of 11 December 2013 on the Annual Report on Human Rights in the World and the European Union's policy on the matter, including implications for the EU's strategic human rights policy(4),

– having regard to the Latin American Parliament General Assembly Resolution of 19 and 20 October 2013 on the 'Promotion of the International Criminal Court and Ratification of Kampala Amendments' (AO/2013/07XXIX),

– having regard to the resolution of the Assembly of States Parties to the Rome Statute of the International Criminal Court of 27 November 2013 on the 'Strengthening of the International Criminal Court and the Assembly of States Parties', which includes a call on future States Parties to ratify the Statute as amended, a call on all States Parties to consider ratifying the amendments and a recognition of the recent ratifications of the amendments by a number of States Parties (ICC-ASP/12/Res.8),

– having regard to the Ratification and Implementation of the Kampala Amendments to the Rome Statute of the ICC handbook produced by the Permanent Mission of the Principality of Liechtenstein to the United Nations, the Global Institute for the Prevention of Aggression and the Liechtenstein Institute on Self-Determination at Princeton University,

– having regard to Rule 123(2) of its Rules of Procedure,

A. whereas the Member States have been staunch allies of the ICC since its inception, providing financial, political, diplomatic and logistical support, while promoting the universality of the Rome Statute and defending its integrity, with a view to strengthening the independence of the Court;

B. whereas the ratification of the Kampala Amendment to the Rome Statute on the crime of aggression by at least 30 States Parties and a decision to be taken after 1 January 2017 by a two-thirds majority of States Parties will allow the establishment of a permanent system of international criminal accountability by penalising the crime of aggression;

C. whereas, thus far, 14 States Parties have ratified the Kampala Amendment on the crime of aggression, including eight EU Member States, namely Belgium, Croatia, Cyprus, Estonia, Germany, Luxembourg, Slovakia and Slovenia;

D. whereas states not party to the Rome Statute can ratify the Rome Statute, including the Kampala amendments, and thereby contribute to the activation of the ICC's jurisdiction over the crime of aggression;

E. whereas the Kampala Amendments are fully compatible with the United Nations Charter in that they only criminalise the most serious forms of the illegal use of force, namely those that manifestly violate the UN Charter by their 'character, gravity and scale';

F. whereas the ICC's jurisdiction over the crime of aggression will contribute to the rule of law at international level and to international peace and security by acting as a deterrent to the illegal use of force and thus proactively contributing to the prevention of such crimes and the consolidation of lasting peace;

G. whereas ratification of both Kampala Amendments by states and activation of the ICC's jurisdiction over the crime of aggression will further contribute to ending impunity for the perpetrators of this crime;

H. whereas ratification of the Kampala Amendments and activation of the ICC's jurisdiction over the crime of aggression will contribute to protecting human rights by criminalising the acts of aggression that often stand at the beginning of the causal chain of gross violations of human rights and grave breaches of international humanitarian law;

I. whereas the criminalisation of acts of aggression will also protect the right to life of combatants who are unlawfully sent to war and those of the state that is attacked, closing a loophole in the Rome Statute and in

international humanitarian law, which protects only civilians and other categories of ‘protected persons’;

J. whereas activation of the ICC’s jurisdiction over the crime of aggression will contribute to the universality of the Rome Statute, since a number of states may be interested in ratifying the completed Rome Statute, including the Kampala Amendments, which will also serve their national policy goal of deterring the illegal use of force against them;

1. Calls for the EU to adopt a common position on the crime of aggression and the Kampala Amendments;

2. Urges the EU to be at the forefront in pushing for the Kampala Amendment on the crime of aggression to enter into force and to support the efforts underway to achieve this goal; to encourage its Member States to first ratify the amendment and then actively to support the one-time decision by the Assembly of States Parties to the Rome Statute, once the required 30 ratifications are achieved, to activate the ICC’s jurisdiction for the crime of aggression;

3. Stresses the need to actively promote support for the ICC, the ratification of the Rome Statute as amended and the ratification of both Kampala amendments in all EU external actions, including through the EU Special Representative on Human Rights (EUSR) and EU Delegations on the ground, also including technical assistance for states seeking ratification and/or implementation;

4. Calls on the EU to commit to the fight against genocide, crimes against humanity, war crimes and the crime of aggression, as well as calling for combating impunity for grave human rights violations to be made a priority for the EU, and for the Member States, in their external actions;

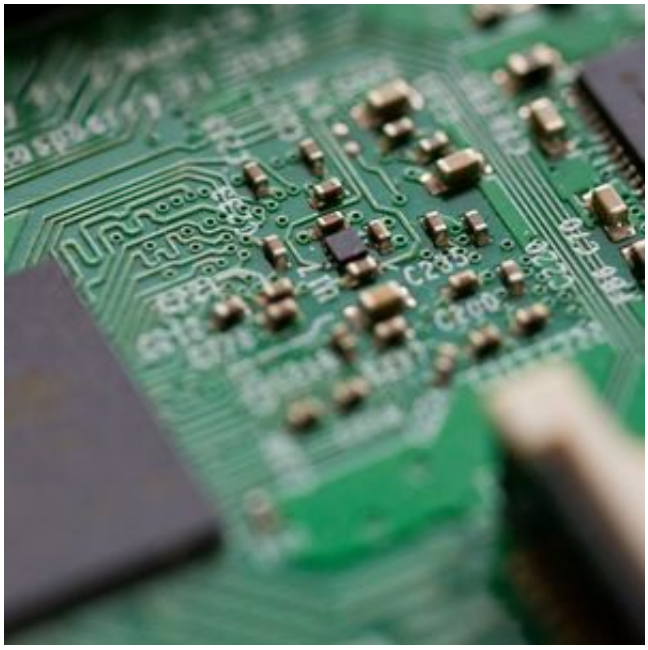
5. Calls on the Member States to swiftly align national legislation with the Kampala Amendments’ definitions, as well as other obligations under the Rome Statute, to enable national investigations and prosecutions of the crimes by EU Member States and to cooperate with the Court;

6. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States and the European External Action Service.

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