

**JL**  
**DET KONGELIGE**  
**UTENRIKSDEPARTEMENT**  
*The Foreign Minister*

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Norwegian Helsinki Committee

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Oslo, 23 January 2023

[Unofficial translation by the Norwegian Helsinki Committee of a [letter](#) in the Norwegian language by Norway's Minister of Foreign Affairs, responding to the 5 December 2022 letter from the Centre for Civil Liberties, The Norwegian Helsinki Committee and ICJ Norway, asking Norway to support the establishment of a Special Tribunal on Russia's aggression against Ukraine. The original Norwegian version of the letter is available [here](#).]

I refer to your letter dated 5 December 2022 regarding accountability for the crime of aggression against Ukraine. In the letter, the Centre for Civil Liberties, the Norwegian Helsinki Committee, and the International Commission of Jurists (ICJ Norway) ask Norway to support the establishment of a special tribunal for the crime of aggression against Ukraine, as well as to ratify the Kampala amendment on the crime of aggression to the Rome Statute of the International Criminal Court (ICC).

Accountability is fundamental to ensure justice for victims and to deter future crimes. Anyone who commits serious crimes must be held accountable for their actions. This is the background as to why Kripos [The National Criminal Investigation Service] has started an investigation into possible war crimes in Ukraine, and why Norway, together with a number of other countries, referred the situation in Ukraine to the ICC in March [2022]. With this state party referral, the Prosecutor of the ICC could more quickly initiate investigations into possible war crimes and crimes against humanity, and secure evidence in the case. The ICC's jurisdiction extends to all those responsible. No one has immunity from the ICC. Norway will also intervene both in the case that Ukraine has brought against Russia at the International Court of Justice (ICJ) for violation of the Genocide Convention, and in the case brought at the European Court of Human Rights (ECHR) for violation of the European Convention on Human Rights.

I am positive to accountability mechanisms that can help ensure justice for the victims of Russia's aggression. Norway works closely with European allies and other like-minded on

these issues. We are in ongoing dialogue with other countries about the initiative to establish a special tribunal to investigate crimes of aggression against Ukraine. It is important that such a mechanism has broad support among many countries. This will increase the tribunal's legitimacy, while at the same time, lack of cooperation on Russia's part will pose a challenge related to the collection of evidence and the implementation of possible penal sanctions.

Your call for ratification of the Kampala amendment raises several questions of principle that must be thoroughly assessed before Norway takes a position on possible ratification. In connection with considerations of the question in the Storting [the Parliament], we pointed out that it is desirable to consider, first, the possible application and interpretation of this criminal law provision by the ICC before Norway would ratify. This will put us in a better position to investigate the consequences for Norway. Due to the nature of the crime, there is also a significant risk that the crime of aggression could contribute to further politicization of the court. The call to criminalize the crime of aggression in Norwegian law is closely linked to the question of ratification and will have to be considered in this context. This question has been dealt with in the Storting several times, at the latest on 3 June 2022. The government's position enjoys broad political support.

Let me conclude by thanking you for your valuable input and commitment.

With best regards,

Anniken Huitfeldt