

1 March 2022

## DECLARATION OF THE INSTITUTE OF INTERNATIONAL LAW ON AGGRESSION IN UKRAINE

The members of the Institute of International Law are following with dismay the ongoing Russian military operations in Ukraine.

According to its Statutes, the Institute aims to contribute, “within the limits of its competence, either to the maintenance of peace, or to the observance of the laws of war”. Building on a tradition that won it the Nobel Peace Prize in 1904, the Institute sees it as its duty to firmly denounce the aggression for which the Russian Federation is responsible through its massive military intervention in Ukraine.

The Institute of International Law emphasizes that this action:

(1) is contrary to the most fundamental principles of international law, repeatedly reaffirmed and clarified in the resolutions it has adopted in the past, whether it concerns

(a) the prohibition of the use of armed force in international relations, and the territorial integrity of States, both proclaimed by Article 2, paragraph 4, of the Charter of the United Nations (hereinafter the Charter) (Resolutions relating to *Present Problems of the Use of Force in International Law*, in particular that on the *Authorization of the Use of Force by the United Nations* of 2011 adopted at the Rhodes session and the *Bruges Declaration on the Use of Force* of 2003),

(b) the equal rights of peoples and their right to self-determination as a basis for friendly relations among nations in accordance with Article 1, paragraph 2, of the Charter (Resolutions relating to Present Problems of the Use of Force on International Law, in particular that on *Military Assistance on Request* of 2011 adopted at the Rhodes session); or

(c) non-intervention in the affairs of other States as prohibited by paragraph 7 of Article 2 of the Charter (Resolution on *The Protection of Human Rights and the Principle of Non-intervention in Internal Affairs of States* of 1989 adopted at the Session of Santiago de Compostela);

(2) cannot find any legal justification, either in the principle of the inherent right of self-defence provided for in Article 51 of the Charter in the absence of an armed attack on the part of Ukraine, or in a Security Council resolution adopted under Chapter VII of the Charter;

(3) is inconsistent with specific commitments made by Russia to Ukraine (Budapest *Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons* of 1994 and the "Minsk Agreements" of 2014 and 2015, unanimously approved by the Security Council in Resolution S/RES/2202) and cannot be justified as lawful "countermeasures", which must not themselves violate peremptory norms of general international law (*jus cogens*) in any circumstance.

No argument of a political nature, including security arguments, can serve as a justification to disregard the basic rules of the legal system that the international community has established at the cost of so many sacrifices in the

past. Multilateralism, and not recourse to unilateral action, must guide the conduct of States with a view to the maintenance of international peace and security.

The Institute notes that the international responsibility of the Russian Federation is engaged for its serious breach of obligations arising from peremptory norms of international law and that, as such, Russia exposes itself to appropriate measures in accordance with international law and without prejudice to Ukraine's right of self-defence.

The Institute recalls that the ongoing military operations call *ipso facto* for the application of international humanitarian law, including the rules relating to occupation, as well as all the other rules applicable in times of armed conflict. It recalls also that persons responsible for international crimes as defined by international law may be prosecuted and sentenced in accordance with the law in force.

Faithful to its mission, the Institute remains convinced that, while international law alone cannot prevent the outbreak of violence, it must remain the compass by which States are guided, and it is more than ever determined to strengthen its work to promote "the progress of international law". The Institute adds its voice to that of other actors in the international community, including the learned societies acting in defense of the rule of law, who call for an end to the war in Ukraine and the settlement in good faith of disputes between the States concerned through all appropriate means of peaceful settlement.

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