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RUSSIA-UKRAINE : ICC prosecutor to investigate war crimes in Ukraine

ICC prosecutor to investigate possible war crimes in Ukraine

Karim Khan says that although Ukraine isn't a member of the ICC, it has awarded jurisdiction to the court

Julian Borger in Washington

The Guardian (28.02.2022) – <https://bit.ly/3iaNDiZ> – The prosecutor of the [international criminal court](#) (ICC) in The Hague has announced that he will launch an investigation into possible war crimes or crimes against humanity in Ukraine.

Karim Khan said that although [Ukraine](#) was not a member of the ICC, it had awarded jurisdiction to the court. He said that there was grounds to open an investigation based on a previous preliminary investigation on Crimea and the Donbas published last year, and on current events in Ukraine.

“I have already tasked my team to explore all evidence preservation opportunities,” Khan, a British lawyer, said.

He said that he could go to ICC judges to approve the inquiry, but it would be faster if an ICC member state referred the case to his office, “which would allow us to actively and immediately proceed with the office’s independent and objective investigations”.

Russian blasts hit civilian areas: the videos analysed as war crime evidence

Earlier in the day, Lithuania had called on the ICC to open an investigation into possible war crimes committed by Russia and [Belarus](#) in Ukraine.

Lithuania’s prime minister, Ingrida Simonyte, told the Washington Post: “What Putin is doing is just a murder and nothing else, and I hope he will be in The Hague.”

With evidence mounting of Russia’s use of indiscriminate cluster munitions on Ukrainian cities, and [the leveling of residential buildings in Kharkiv](#) in particular, the government in Kyiv is also preparing a case against Moscow to take to The Hague.

Ukraine has also taken [Russia](#) to the international court of

justice (ICJ) for having launched an invasion on the pretext of false claims of genocide perpetrated against the country's Russian speakers.

David Bosco, an expert on international justice at Indiana University, said the ICJ submission "is kind of a symbolic move by Ukraine".

"That's not going to yield very much because it's not actually clear that ICJ is going to have jurisdiction," Bosco said. "And then even if they do, it's something that would take a long, long time."

Even before Khan's announcement several groups had started to collate war crimes evidence for use for future trials at the ICC or elsewhere.

Eliot Higgins, the founder of the Bellingcat investigative journalism agency, said the group was working with other organisations to preserve evidence that would be accepted in court.

"We've been working on issues related to accountability using open source evidence for a long time, so we're very familiar with the needs of stakeholders like the ICC," Higgins said.

"Our goal would then be to make that data available to any accountability process that wants to use it. We aim to have, at a minimum, date and geolocation data, and then work to add other data, such as the type of violation documented, munitions featured in videos, etc."

Khan's predecessor as ICC prosecutor, Fatou Bensouda, [announced in 2020](#) that there was enough evidence from the conflict in eastern Ukraine and Crimea to launch an investigation but the ICC judges did not give their approval. Khan said that, after reviewing Bensouda's case, "I am satisfied that there is a reasonable basis to believe that both alleged war crimes and crimes against humanity have been

committed in Ukraine.”

Bosco said that in the wake of the Lithuanian submission, Khan would not have to seek the judges’ approval to launch a new investigation, and so could move swiftly to start work.

“If the ICC is going to investigate, that means from their perspective they have jurisdiction over any Russians on Ukrainian territory and over any crimes committed on Ukrainian territory,” Bosco said. “But it’s got to be either war crimes, crime against humanity or genocide.”

The Rome statute, the ICC’s founding document, was amended in 2018 to include the crime of aggression. However, in his statement, Khan said he did not have jurisdiction to investigate that crime because neither Russia nor Ukraine are signatories to the Rome statute.

HRWF Note: More reading

[The ICC investigates the situation in Ukraine: Jurisdiction and potential implications \(10.03.2022\)](#)

[Is Putin likely to face the ICC over Russia’s actions in Ukraine? \(07.03.2022\)](#)

[International courts to investigate Russia’s Ukraine invasion \(07.03.2022\)](#)

[Putin’s crime of aggression in Ukraine and the International Criminal Court \(05.03.2022\)](#)

[Could the international criminal court bring Putin to justice over Ukraine? \(02.03.2022\)](#)

[Statement of the ICC prosecutor \(02.03.2022\)](#)

[Statement of the ICC prosecutor on the situation in Ukraine \(28.02.2022\)](#)

[Russia withdraws from International Criminal Court treaty](#)

(16.11.2016)

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Notice: Undefined index: et_template in /home/hrwfe90/domains/hrwf.eu/public_html/wp-content/plugins/pdf-print/pdf-print.php on line 1268