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**An Bille um Dhlúthpháirtíocht leis an Úcráin, 2022**  
**Ukraine Solidarity Bill 2022**

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*Mar a tionscnaíodh*

*As initiated*

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**An Bille um Dhlúthpháirtíocht leis an Úcráin, 2022**  
**UKRAINE SOLIDARITY BILL 2022**

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# Bill

*entitled*

An Act to provide comprehensive solidarity to Ukraine in the face of the unlawful war of aggression waged by the Russian Federation with the support of Belarus, to provide for criminal and civil liability in respect of the crime of aggression and related wrongs and for the recognition of qualifications of displaced persons, to make provision with extra-territorial effect in accordance with Article 29.8 of the Constitution and to provide for related matters. 5  
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**Be it enacted by the Oireachtas as follows:**

## PART 1

### PRELIMINARY AND GENERAL

#### **Short title**

1. This Act may be cited as the Ukraine Solidarity Act 2022. 15

#### **Interpretation**

2. In this Act,

“Kampala Amendments” means the Resolution on Amendments on the crime of aggression to the Rome Statute of the International Criminal Court done at Kampala on 11 June 2010; 20

“Rome Statute” means the Rome Statute of the International Criminal Court, done at Rome on 17 July 1998;

“war of aggression against Ukraine” means the unlawful war of aggression by the Russian Federation against Ukraine that commenced on 20 February 2014 and that has intensified since 24 February 2022 with the assistance of Belarus. 25

#### **Extra-territorial jurisdiction**

3. (1) *Parts 2 to 4* shall apply in respect of any act or omission committed after the passing of this Act by any person irrespective of their nationality, whether in the State or elsewhere.

- (2) For the avoidance of doubt the extra-territorial jurisdiction exercised by this Act in accordance with Article 29.8 of the Constitution and in accordance with the generally recognised principles of international law is based in particular on the following:
- (a) the right of the State to legislate to uphold universal norms of international law; or 5
  - (b) the right of the State to take lawful counter-measures to assist the sovereign right of Ukraine to defend itself against the crime of aggression.
- (3) The extra-territorial effect of this Act does not depend on the existence or scope of any international agreement such as the Rome Statute as amended.

## PART 2 10

### CRIMINAL LIABILITY IN RELATION TO AGGRESSION

#### **Definitions for the purposes of this Part**

#### **4. In this Part—**

“Act of 1994” means the Criminal Justice Act 1994;

“Act of 2006” means the International Criminal Court Act 2006; 15

“act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression: 20

(a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof; 25

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade of the ports or coasts of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State; 30

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement; 35

(f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;



(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

“ancillary act” in relation to the crime of aggression means an act by a person in a position effectively to exercise control over or to direct the political or military action of a State. 5

(a) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(b) 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; 10

(c) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either: 15

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime; or

(ii) Be made in the knowledge of the intention of the group to commit the crime;

(d) Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. 20

“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; 25

“ICC” means the International Criminal Court.

## **Offence**

5. (1) Any person who commits the crime of aggression, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible, is guilty of an offence. 30

(2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life or to a fine or both, and if the person has obtained property as a result of or in connection with the offence, to having a confiscation order made in respect of him or her under section 9 of the Act of 1994. 35

(3) This section applies to the crime of aggression whether or not the International Criminal Court has jurisdiction over that crime by virtue of Article 15 or Article 15 of the Rome Statute as amended by the Kampala Amendments.

(4) This section is without prejudice to the civil liability of the person committing the offence. 40

### **Ancillary acts**

6. (1) Any person who commits an ancillary act in relation to the crime of aggression, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible, is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life or to a fine or both, and if the person has obtained property as a result of or in connection with the offence, to having a confiscation order made in respect of him or her under section 9 of the Act of 1994. 5
- (3) This section applies to an ancillary act whether or not the International Criminal Court has jurisdiction over that crime by virtue of Article 25 of the Rome Statute as amended by the Kampala Amendments. 10
- (4) This section is without prejudice to the civil liability of the person committing the offence.

### **Application of Act of 2006**

7. Subject to this Act, section 9, 11, 13 and 14 and Parts 3 to 6 of the Act of 2006 shall apply with any necessary modifications: 15
- (a) to an offence under this Act that is within the jurisdiction of the ICC, as if that offence were an ICC offence; and
- (b) to an offence under this Act that is not within the jurisdiction of the ICC, insofar as relates to the prosecution of the offence in a court in the State, as if that offence were an ICC offence. 20

### **Co-operation with the courts of any other state**

8. Where a court in any other state is exercising jurisdiction in relation to genocide, crimes against humanity, war crimes or the crime of aggression, the provisions in relation to international criminal co-operation (including in relation to the taking of evidence or extradition) provided for by the Act of 2016 in respect of co-operation with the ICC shall apply with any necessary modifications to co-operation with the court of competent jurisdiction concerned. 25

## **PART 3**

### **CRIMINAL LIABILITY IN RELATION TO SANCTIONS**

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### **Definition for the purposes of this Part**

9. In this Part, “EU sanction” means a measure adopted by the European Union, whether before or after the passing of this Act, in connection with sanctions against the Russian Federation or Belarus arising from the war of aggression against Ukraine, including Council Regulation (EU) No. 208/2014 of 5 March 2014<sup>1</sup> as amended, Council Regulation (EU) No. 269/2014 of 17 March 2014<sup>2</sup> as amended, Council Regulation (EU) No. 692/2014 of 23 June 2014<sup>3</sup> as amended, Council Regulation (EU) No. 833/2014 of 31 July 2014<sup>4</sup> as amended and Council Regulation (EU) 2022/263 of 23 February 2022, 35

and such other measures as may be prescribed for the purposes of this section.

**Offence in relation to sanctions**

10. (1) Any person, regardless of nationality, and whether or not the act or omission took place in the State, who—
- (a) converts, conceals or in any way deals with any asset in breach of an EU sanction; 5
  - (b) conducts any financial, commercial or other transaction in breach of an EU sanction,
  - (c) provides assistance including legal, financial or accounting assistance to any person which has the effect of facilitating that person in converting, concealing or in any way dealing with any asset that is subject to an EU sanction, or conducting any financial, commercial or other transaction contrary to an EU sanction, 10
  - (d) aids, abets, counsels, procures, or attempts the foregoing, or
  - (e) commits any breach of an EU sanction that is prescribed for the purposes of this paragraph, 15
- is guilty of an offence and is liable on conviction on indictment to imprisonment for 10 years or to a fine or both, and if the person has obtained property as a result of or in connection with the offence, to having a confiscation order made in respect of him or her under section 9 of the Act of 1994.
- (2) The Government may make regulations under this section prescribing matters for the purposes of this Part or giving further effect to this section and making any further provision consequential or ancillary to the section or giving effect to any additional measures adopted by the European Union in connection with sanctions against the Russian Federation or Belarus arising from the war of aggression against Ukraine. 20
- (3) Any regulations made under section 3 of the European Communities Act 1972 and in force on the passing of this Act dealing with EU sanctions are deemed to be made under this section, but any provisions as to penalties in such regulations apply only to offences committed before the passing of this Act. 25
- (4) This section is without prejudice to the civil liability of the person committing the offence. 30

PART 4

CIVIL LIABILITY IN RELATION TO AGGRESSION

**Extra-territorial civil jurisdiction**

11. (1) Any person, regardless of nationality, and regardless of whether or not the person is in a position effectively to exercise control over or to direct the political or military action of a State and of whether or not the act or omission took place in the State, who commits any act in furtherance of a crime of aggression shall be liable in tort jointly and severally to the State against which the crime was committed and to any person 35

injured by the crime of aggression.

- (2) The amount of such liability shall be the full amount of the injury caused by the crime of aggression irrespective of the extent to which the act of the defendant furthered that crime.
- (3) Civil proceedings under this part may be taken in the State only in the High Court. 5

### **Co-operation with the courts of any other state and forfeiture of assets**

12. (1) Where a court in any other state is exercising jurisdiction in relation to civil liability for matters to which this Part relates, the law of the State in relation to international civil co-operation (including in relation to the taking of evidence, the freezing of assets or the enforcement of judgments or awards) shall apply with any necessary modifications to co-operation with the court of competent jurisdiction concerned. 10
- (2) In particular, where any asset is frozen by law or by a court or executive authority in the State, on application to the High Court by the country or person harmed by the act of aggression—
  - (a) if no appearance or defence has been entered or if it appears to the court that there is no reasonable defence to any civil proceedings (whether in the State or elsewhere) in respect of the act concerned, the court may direct that the asset be forfeited and be transferred to that country or person without compensation, or 15
  - (b) in any other case, the court may direct that the asset be transferred to a court or other authority in another state in which civil proceedings are being conducted, pending any order of the courts of that state. 20

## **PART 5**

### **RECOGNITION OF QUALIFICATIONS OF DISPLACED PERSONS**

#### **Regulations requiring recognition of qualifications**

13. (1) Each Minister of the Government shall within 28 days of the passing of this Act make regulations under this section fully implementing Commission Recommendation (EU) 2022/554 of 5 April 2022 on the recognition of qualifications for people fleeing Russia's invasion of Ukraine insofar as concerns qualifications within the scope of that Minister's responsibility or within the responsibility of any entity under the aegis of the Minister's Department. 25 30
- (2) Regulations under this section may modify, or apply with or without modifications, any provision of an enactment to the extent necessary or appropriate in order to give effect to the Commission Recommendation, and may attach such pre-recognition or post-recognition requirements or conditions as the Minister considers are essential in the public interest. 35



An Bille um Dhlúthpháirtíocht leis an  
Úcráin, 2022

# BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do sholáthar dlúthpháirtíocht chuimsitheach don Úcráin i bhfianaise an chogaidh ionsaithe neamhdhleathaigh atá á fhearadh ag Cónaidhm na Rúise le tacaíocht ón mBealarúis, do dhéanamh socrú maidir le dliteanas coiriúil agus dliteanas sibhialta i leith choir an ionsaithe agus éagóracha gaolmhara agus maidir le cáilíochtaí daoine easáitithe a aithint, do dhéanamh foráil le héifeacht sheachchríochach de réir Airteagal 29.8 den Bhunreacht agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An Teachta Séamus Ó Ceallacháin a thug isteach,  
12 Nollaig, 2022

Ukraine Solidarity Bill 2022

# BILL

(as initiated)

entitled

An Act to provide comprehensive solidarity to Ukraine in the face of the unlawful war of aggression waged by the Russian Federation with the support of Belarus, to provide for criminal and civil liability in respect of the crime of aggression and related wrongs and for the recognition of qualifications of displaced persons, to make provision with extra-territorial effect in accordance with Article 29.8 of the Constitution and to provide for related matters.

Introduced by Deputy Jim O'Callaghan,  
12th December, 2022