
1532nd meeting, 18 and 24 June 2025

2 Current political questions

2.3 Consequences of the aggression of the Russian Federation against Ukraine

Statute of the Special Tribunal for the Crime of Aggression against Ukraine

Having been established by the Agreement concluded on 25 June 2025 between the Council of Europe and Ukraine, the Special Tribunal for the Crime of Aggression against Ukraine (hereinafter "Special Tribunal") shall function in accordance with the provisions of this Statute.

CHAPTER I – JURISDICTION AND APPLICABLE LAW

Article 1 – Jurisdiction of the Special Tribunal

The Special Tribunal shall have the power to investigate, prosecute and try persons who bear the greatest responsibility for the crime of aggression against Ukraine. Such jurisdiction is based on the territorial jurisdiction of Ukraine.

Article 2 – Definition of the crime of aggression

(1) For the purpose of this Statute, "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.

(2) For the purpose of paragraph 1 of this article, "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.

(3) For the purpose of determining whether an act of aggression, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations, the Special Tribunal shall take into account United Nations General Assembly Resolution 3314 (XXIX) of 14 December 1974 and all relevant United Nations General Assembly resolutions with respect to Ukraine, including those recited in the preamble of the Agreement between the Council of Europe and Ukraine on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine (hereinafter "Agreement").

(4) For the purpose of this Statute, in the context of the aggression against Ukraine, an act of aggression which is determined by its character, gravity and scale to constitute a manifest violation of the Charter of the United Nations, shall also be deemed to constitute a war of aggression.

Article 3 – Applicable law

The Special Tribunal shall apply:

(a) in the first place, this Statute and the Rules of Procedure and Evidence adopted in accordance with Article 15 of this Statute;

(b) in the second place, applicable treaties, customary international law and general principles of law when necessary to ensure compliance with accepted standards of international criminal law;

(c) failing that, provisions of the substantive criminal law of Ukraine relating to the prosecution and punishment of the crime of aggression.

Article 4 – Individual criminal responsibility and irrelevance of official capacity

(1) A person in a position effectively to exercise control over or to direct the political or military action of a State who planned, instigated, ordered or committed, or attempted to commit, a crime referred to in Article 2 of this Statute shall be individually responsible for the crime. This shall be without prejudice to the responsibility of States under international law.

(2) For the purpose of this Statute, the official position of any accused person at the time of the alleged commission of a crime, whether as head of State or government, a member of a government or parliament, an elected representative or a government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

(3) An amnesty granted to any person falling within the jurisdiction of the Special Tribunal with respect to the crime referred to in Article 2 of this Statute shall not be a bar to prosecution.

Article 5 – Non-prejudice clause

Nothing in this Statute shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law for purposes other than this Statute.

CHAPTER II – ORGANISATION AND ADMINISTRATION OF THE SPECIAL TRIBUNAL**Article 6 – Organisation of the Special Tribunal**

The Special Tribunal shall consist of:

- (a) the Chambers;
- (b) the Office of the Prosecutor; and
- (c) the Registry.

Article 7 – The judges and composition of the Chambers

(1) The Chambers shall be composed of different formations as follows:

- (a) one judge as a Pre-Trial Judge;
- (b) three judges in the Trial Chamber; and
- (c) five judges in the Appeals Chamber.

(2) The President of the Special Tribunal may assign alternate judges to each formation, as appropriate. The principles and procedures governing the application of this paragraph shall be those provided for in the Rules of Procedure and Evidence.

(3) Each judge shall serve only in the chamber to which he or she has been assigned.

(4) The President of the Special Tribunal shall be elected for a term of three years renewable once by an absolute majority of the judges on the roster sitting in plenary session. The Vice-President of the Special Tribunal shall be elected by an absolute majority of the judges on the roster sitting in plenary session. In the absence or incapacity of the President of the Special Tribunal, the Vice-President shall assume the duties of the President of the Special Tribunal until the President of the Special Tribunal has resumed his or her duties or has been replaced.

(5) The President of the Special Tribunal shall be the presiding judge of the Appeals Chamber. The Trial Chambers, respectively, shall elect a presiding judge who shall conduct the proceedings in the chamber to which he or she was elected.

Article 8 – Qualification and election of judges for the Chambers

(1) The judges of the Special Tribunal shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. They shall be independent in the performance of their functions and shall not seek or act on instructions from any government or any other source. No two judges may be nationals of the same State. For the purpose of membership of the Special Tribunal, a person who could be regarded as a national of more than one State shall be deemed to be a national of the State in which that person ordinarily exercises civil and political rights. In electing the judges, due account shall be taken of the experience of the candidates in criminal law, in particular their criminal trial experience and international law, as well as ensuring a geographical and gender balance, and representation across legal systems.

(2) Members and associate members of the Management Committee of the Special Tribunal for the Crime of Aggression against Ukraine (hereinafter "Management Committee") as established by the Enlarged Partial Agreement of the Council of Europe on the Management Committee of the Special Tribunal for the Crime of Aggression against Ukraine (hereinafter "Enlarged Partial Agreement") may propose candidates for the roster of judges. The nominated candidate does not need to be a national of a State that is a member or associate member of the Management Committee. The roster of judges shall include 15 judges for staggered mandates to ensure the efficient and effective functioning of the Special Tribunal.

(3) An independent advisory panel shall recommend to the Management Committee the most suitable candidates for the roster of judges. This advisory panel, whose members shall be appointed by the Management Committee, shall consist of seven eminent members of the highest national courts, former judges of international criminal courts and tribunals and other lawyers of high moral character with substantial experience in international law, including international criminal law. In its composition, the advisory panel shall strive to achieve a geographical and gender balance.

(4) In accordance with the Enlarged Partial Agreement and the Rules of Procedure and Evidence, the Management Committee will elect the judges by secret ballot by an absolute majority for a nine-year period to the roster. In relation to the judges elected at the first election, however, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary General of the Council of Europe (hereinafter "Secretary General") immediately after the first election has been completed. The judges shall not be eligible for re-election to the roster.

(5) The judges shall not receive remuneration or other benefits for being on the roster. The judges on the roster shall endeavour not to undertake any activity which could compromise the ability of the President of the Special Tribunal to assign them to exercise functions as a judge in the Special Tribunal.

(6) The President of the Special Tribunal shall assign judges from the roster to the formations of the Special Tribunal or for any other matter as foreseen by this Statute or the Rules of Procedure and Evidence. The trial chamber formation shall be composed predominantly of judges with criminal trial experience. When assigned to hear a pre-trial, trial or appeal phase of a case, the judge shall be assigned for a term of three years or until the completion of the phase of the proceedings to which he or she is assigned. The term can be prolonged for the duration required to complete the matter or the phase of the proceedings to which he or she is assigned. The judges shall only be present at the seat of the Special Tribunal as necessary at the request of the President of the Special Tribunal to exercise functions requiring their presence. In so far as possible, and as decided by the President of the Special Tribunal, the functions may be exercised remotely.

(7) The Pre-Trial Judge who has confirmed the indictment shall not be part of the Trial or Appeals Chamber assigned to the case.

(8) The President of the Special Tribunal may, upon the request of a judge, excuse that judge from the exercise of a function under this Statute in accordance with the Rules of Procedure and Evidence.

(9) A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, *inter alia*, that judge has previously been involved in any capacity in that case before the Special Tribunal or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided for in the Rules of Procedure and Evidence. A judge shall not be disqualified solely on the basis of his or her nationality. The Prosecutor or the person being investigated or prosecuted may request the disqualification of a judge under this paragraph. Any question as to the

disqualification of a judge shall be decided by an absolute majority of the judges on the roster sitting in plenary session. The challenged judge shall be entitled to present his or her comments on the matter but shall not take part in the decision.

(10) In the event of a vacancy on the roster of judges, an election shall be held in accordance with this article to fill the vacancy. A judge elected to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is two years or less, shall be eligible for re-election for a full term.

Article 9 – The Office of the Prosecutor

(1) The Office of the Prosecutor shall be an independent organ of the Special Tribunal. The Prosecutor of the Special Tribunal (hereinafter "Prosecutor") and the permanent staff of the office shall not seek or act on instructions from any government or from any other authority. They shall not engage in any other occupation of a professional nature. The Prosecutor shall be responsible for conducting independent and impartial investigations and prosecutions.

(2) The Prosecutor shall be assisted by at least one Deputy Prosecutor and by such staff as may be required to perform the functions assigned to him or her effectively and efficiently.

Article 10 – Qualification and election of the Prosecutor

(1) The Prosecutor shall be of high moral character and possess the highest level of professional competence and have extensive experience in the conduct of investigations and prosecutions of criminal cases.

(2) All States that are members or associate members of the Management Committee may propose candidates for the position of the Prosecutor. Nominations for the position of the Prosecutor should preferably be made with the support of multiple States. The nominated candidate does not need to be a national of a State that is a member or associate member of the Management Committee.

(3) The advisory panel shall recommend to the Management Committee the most suitable candidates.

(4) The Prosecutor shall be elected by secret ballot by an absolute majority of the members of the Management Committee. The term of the Prosecutor shall be seven years. He or she shall not be eligible for re-election. Deputy Prosecutors are elected in the same way as the Prosecutor, from a list of candidates provided by the Prosecutor, for a term of seven years without a possibility of re-election.

(5) The Prosecutor and Deputy Prosecutors shall not participate in any matter in which their impartiality might reasonably be doubted. The Prosecutor and Deputy Prosecutors shall not be disqualified solely on the basis of their nationality.

(6) Any question as to the disqualification of the Prosecutor and Deputy Prosecutors shall be decided by the Appeals Chamber. The person being investigated or prosecuted may at any time request the disqualification of the Prosecutor and Deputy Prosecutors on the grounds set out in this article; and the Prosecutor and Deputy Prosecutors, as appropriate, shall be entitled to present their comments on the matter.

Article 11 – The Registry

(1) The Registry shall be responsible for the administration and servicing of the Special Tribunal.

(2) The Registry shall consist of the Registrar of the Special Tribunal (hereinafter "Registrar") and such other staff as may be required.

(3) The Registrar shall establish, within the Registry:

(a) a Victims and Witnesses Unit, which shall provide, as appropriate and in consultation with the Chambers and the Office of the Prosecutor or Defence Unit respectively, protective measures and security arrangements, counselling and other appropriate assistance for witnesses and others who are at risk on account of testimony given by such witnesses, and shall organise the representation of victims before the Special Tribunal;

(b) a Detention Unit, which shall manage the conditions of detention of suspects and accused persons; and

(c) an independent Defence Unit, which shall protect the rights of the defence, draw up a defence counsel list, provide support and assistance to the defence counsel and to the persons entitled to legal assistance, including, where appropriate, legal research, collection of evidence and advice, and appearing before the Special Tribunal in respect of specific issues.

(4) Without prejudice to the authority of the Prosecutor under this Statute to receive, obtain and provide information and to establish channels of communication for this purpose, the Registrar shall serve as the channel of communication of the Special Tribunal.

(5) The Registrar may co-ordinate with national authorities to take custody of accused persons.

(6) The Registrar shall be responsible for the internal security of the Special Tribunal, in consultation with the President of the Special Tribunal and the Prosecutor, as well as the host State.

Article 12 – Qualification and appointment of the Registrar

(1) The Registrar shall be of high moral character and possess the highest level of professional competence and have extensive experience in the administration of international criminal justice.

(2) Upon election by the judges on the roster sitting in plenary session, the Registrar shall be appointed by the Secretary General for a four-year term. He or she shall be eligible for re-appointment.

Article 13 – Staff of the Special Tribunal

(1) Subject to Article 9, paragraph 2, and Article 11, paragraph 2, of this Statute, the Secretary General shall appoint, upon the recommendation of the President of the Special Tribunal, the Prosecutor and the Registrar respectively, such qualified staff to the Special Tribunal as may be required. In the case of the Office of the Prosecutor, this shall include the appointment of investigators. In the case of the Defence Unit, this may include one or more lawyers for the defence counsel.

(2) When making recommendations for appointment to the Secretary General, the President of the Special Tribunal, the Prosecutor and the Registrar shall have regard to the highest standards of efficiency, competency and integrity, and the following criteria:

(a) equitable representation across geographical regions and legal systems;

(b) a fair gender representation; and

(c) legal expertise on specific issues, as appropriate.

(3) In accordance with the applicable regulations and rules of the Council of Europe, members or associate members of the Management Committee may place seconded officials at the disposal of the Special Tribunal to assist with the work of the Registry, the Office of the Prosecutor and the Defence Unit.

(4) Subject to the provision of Article 51 of this Statute, the Staff Rules and Regulations of the Council of Europe apply to the staff of the Special Tribunal appointed by the Secretary General and seconded officials, as appropriate.

Article 14 – Languages of the Special Tribunal

(1) The working language of the Special Tribunal shall be English. The Rules of Procedure and Evidence shall determine in what circumstances and under which conditions other languages may be used, taking into account the two official languages of the Council of Europe.

(2) The application of paragraph 1 of this article shall not in any way limit the rights of the suspect or the accused under Articles 19 and 20 of this Statute.

Article 15 – Rules of Procedure and Evidence

(1) As soon as possible following their placement on the roster, the judges of the Special Tribunal sitting in plenary shall adopt, by a two-thirds majority, the Rules of Procedure and Evidence for the conduct of the pre-trial, trial and appeal phase of the proceedings, the admission of evidence, the representation of victims in the proceedings, the protection of witnesses, safeguards for the protection of personal information, international co-operation and legal assistance, and other appropriate matters. The Rules of Procedure and Evidence shall reflect the highest standards of international criminal procedure, with a view to ensuring a fair and expeditious trial. The Rules of Procedure and Evidence shall enter into force upon conclusion of the next meeting of the Management Committee, unless the Committee objects.

(2) Amendments to the Rules of Procedure and Evidence may be proposed by:

(a) any member or associate member of the Management Committee;

(b) the judges of the Special Tribunal, sitting in plenary, acting by an absolute majority;

(c) the Prosecutor; or

(d) the Registrar.

(3) Such amendments shall be adopted and enter into force in accordance with the procedure foreseen in paragraph 1 of this article.

(4) The Rules of Procedure and Evidence, amendments thereto and any provisional rules shall be consistent with this Statute. Amendments to the Rules of Procedure and Evidence as well as provisional rules shall not be applied retroactively to the detriment of the person who is being investigated or prosecuted, or who has been convicted.

(5) In the event of conflict between this Statute and the Rules of Procedure and Evidence, the Statute shall prevail.

CHAPTER III – INVESTIGATION, PROSECUTION, PRE-TRIAL, TRIAL AND APPEAL PROCEEDINGS

Section 1 - General principles

Article 16 – Right to a fair trial

(1) Everyone shall be equal before the Special Tribunal.

(2) Everyone shall be entitled to a public hearing, having regard to the provisions of this Statute, and to a fair trial conducted independently and impartially and within a reasonable time.

Article 17 – *Ne bis in idem*

(1) Except as provided for in this Statute, no person shall be tried before the Special Tribunal with respect to conduct which formed the basis of crimes for which the person has already been convicted or acquitted by the Special Tribunal.

(2) No person who has been tried by a national court shall be tried by the Special Tribunal with respect to the same conduct referred to in Article 2 of this Statute unless the proceedings in the other court:

(a) were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Special Tribunal; or

(b) were otherwise not conducted independently or impartially in accordance with due process guarantees recognised by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice.

(3) In the event that the circumstances set forth in paragraph 2 of this article are satisfied, the Special Tribunal, in sentencing a convicted person, shall take into account the extent to which any penalty imposed by a national court on the same person for the same conduct has already been served.

(4) No person who has been tried by the Special Tribunal shall be tried by a national court of Ukraine with respect to the same conduct referred to in Article 2 of this Statute.

Article 18 – Presumption of innocence

(1) Everyone shall be presumed innocent until proved guilty before the Special Tribunal in accordance with the applicable law.

(2) The burden of proof for establishing the guilt of the accused is on the Prosecutor of the Special Tribunal.

(3) In order to convict the accused, the Chambers must be convinced of the guilt of the accused beyond reasonable doubt.

Article 19 – Rights of persons during an investigation

(1) In respect of an investigation under this Statute, a person:

(a) shall not be compelled to incriminate himself or herself, or to admit guilt;

(b) shall not be subjected to any form of coercion, duress or threat, to torture or to any other form of cruel, inhuman or degrading treatment or punishment;

(c) shall, if questioned in a language other than a language the person competently understands and speaks, have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness; and

(d) shall not be subjected to arbitrary arrest or detention and shall not be deprived of his or her liberty except on such grounds and in accordance with such procedures as established in this Statute.

(2) Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Special Tribunal and that person is about to be questioned by the Prosecutor, or by national authorities pursuant to a request for judicial assistance, that person shall also have the following rights of which he or she shall be informed prior to being questioned:

(a) to be informed that there are grounds to believe that he or she has committed a crime within the jurisdiction of the Special Tribunal;

(b) to remain silent, without such silence being a consideration in the determination of guilt or innocence;

(c) to have legal counsel of the person's choosing or, if the person does not have legal counsel, to have legal counsel assigned to him or her by the Defence Unit, in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have sufficient means to pay for it; and

(d) to consult legal counsel prior to being questioned and to be questioned in the presence of legal counsel unless the person has voluntarily waived his or her right to legal counsel after being informed of these rights.

Article 20 – Rights of the accused

(1) In the determination of any charge, the accused shall be entitled to a fair and public hearing, conducted impartially, and to the following minimum rights, in full equality:

(a) to be informed promptly and in detail of the nature, cause and content of the charge and his or her rights according to this Statute, in a language which the accused competently understands and speaks in order to allow for those rights to be exercised effectively;

(b) to have adequate time and facilities for the preparation of the defence and to communicate freely, in confidence, with legal counsel of the accused's choosing;

(c) to be tried without undue delay;

(d) to be present at the trial, notwithstanding Article 28 of this Statute, to conduct the defence in person or through legal counsel of the accused's choosing, and to be informed, if the accused does not have legal counsel, of this right unless removed by the Trial Chamber for continually disrupting proceedings in accordance with Article 26, paragraph 7.b, or Article 38, paragraph 2, of this Statute;

(e) to have legal counsel assigned by the Special Tribunal in any case where the interests of justice so require, and without payment if the accused lacks sufficient means to pay for it;

(f) to examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her. The accused shall also be entitled to raise defences and to present other evidence admissible under this Statute;

(g) to have, free of any cost, the assistance of a competent interpreter and such translations as are necessary to meet the requirements of fairness, if any of the proceedings or documents presented to the Special Tribunal are not in a language which the accused competently understands and speaks;

(h) not to be compelled to testify or to admit guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;

(i) to make an unsworn oral or written statement in his or her defence; and

(j) not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal.

(2) Subject to any other specific provisions on disclosure in this Statute, the Prosecutor shall, as soon as practicable, disclose to the defence evidence in the Prosecutor's possession or control which he or she believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or

which may affect the credibility of prosecution evidence. In case of doubt as to the application of this paragraph, the Special Tribunal shall decide.

Article 21 – Protection of witnesses

(1) The Special Tribunal shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of witnesses. In so doing, the Special Tribunal shall have regard to all relevant factors, including age, gender and health, and the nature of the crime. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

(2) As an exception to the principle of public hearings, the Chambers of the Special Tribunal may, to protect witnesses or an accused, conduct any part of the proceedings in closed session or allow the presentation of evidence by electronic or other special means.

(3) Other measures for the protection of witnesses shall be defined in the Rules of Procedure and Evidence. The Special Tribunal shall take appropriate measures to ensure that safe relocation of witnesses takes place outside the host State.

(4) The Victims and Witnesses Unit may advise the Prosecutor and the Chambers on appropriate protective measures, security arrangements, counselling and assistance.

Article 22 – Representation of victims in the proceedings

Where groups of victims are identified by the Special Tribunal as specially affected by conduct which formed the basis of the crime as specified in the indictment, the Special Tribunal shall allow them to be collectively represented by legal counsel while ensuring the observance of the rights of the accused, a fair and impartial trial and an efficient conduct of the proceedings.

Section 2 - Investigation, prosecution and pre-trial procedure

Article 23 – Investigation and preparation of indictment

(1) The Prosecutor General of Ukraine refers to the Prosecutor of the Special Tribunal criminal proceedings, information or evidence related to a crime within the jurisdiction of the Special Tribunal requesting the Prosecutor of the Special Tribunal to investigate whether one or more specific persons should be charged with such a crime irrespective of the procedural status of the person concerned in Ukrainian proceedings.

(2) On the basis of such a referral, the Prosecutor of the Special Tribunal shall assess the information received or obtained from any source and decide whether there is a reasonable basis to proceed with an investigation regarding a crime within the jurisdiction of the Special Tribunal. The Prosecutor may, at any time, reconsider a decision whether to proceed with an investigation based on new facts or information. If the Prosecutor decides not to proceed with an investigation, he or she shall draw up a reasoned archiving order and notify Ukraine thereof.

(3) Upon conducting investigations in accordance with Article 24 of this Statute and a determination that there is sufficient evidence to provide reasonable grounds for believing that a crime within the jurisdiction of the Special Tribunal has been or is being committed, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime with which the accused is charged under this Statute. The Prosecutor shall forward the indictment to the President of the Special Tribunal for confirmation by a Pre-Trial Judge, together with supporting material.

(4) Functional immunity shall not apply before the Special Tribunal.

(5) Where the indictment concerns a head of State, head of government or minister of foreign affairs, the Pre-Trial Judge shall not confirm the indictment and shall order the proceedings be suspended until that person no longer holds that office or an appropriate waiver has been presented to the Special Tribunal. During the suspension, the Pre-Trial Judge shall not otherwise act upon the indictment.

Article 24 – Duties and powers of the Prosecutor with respect to investigations

(1) The Prosecutor shall:

(a) in order to establish the truth, extend the investigation to cover all facts and evidence relevant to an assessment of whether there is criminal responsibility under this Statute, and, in doing so, investigate incriminating and exonerating circumstances equally;

(b) take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Special Tribunal and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender and health, and take into account the nature of the crime; and

(c) fully respect the rights of persons arising under this Statute.

(2) The Prosecutor may conduct investigations on the territory of a State in accordance with the provisions of Chapter IV of this Statute on international co-operation and mutual legal assistance.

(3) The Prosecutor may:

(a) collect and examine evidence;

(b) request the presence of persons being investigated and witnesses and question them, either in person or by video link;

(c) seek the co-operation of any State or international body, organisation or arrangement in accordance with its respective competence or mandate;

(d) enter into such arrangements or agreements, not inconsistent with this Statute, as may be necessary to facilitate the co-operation of a State or international, intergovernmental or non-governmental organisation;

(e) agree not to disclose, at any stage of the proceedings, documents or information that the Prosecutor obtains on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of the information consents;

(f) take necessary measures, or request that necessary measures be taken, to ensure the confidentiality of information, the protection of any person or the preservation of evidence;

(g) share relevant information and evidence on potential other criminal offences under national law to the appropriate State authorities where doing so is consistent with applicable law and the interests of justice; and

(h) make public a formal document containing the charges and material facts.

(4) In the conduct of an investigation concerning persons holding office as head of State, head of government or minister of foreign affairs, during their term in office or while an appropriate waiver has not been presented to the Special Tribunal, the measures in paragraph 3 of this article may be taken only insofar as they do not amount to measures of constraint.

Article 25 – Review of the indictment, arrest warrant and pre-trial proceedings

(1) Upon receipt of an indictment for review from the Prosecutor, the President of the Special Tribunal shall designate one judge from the roster to review the indictment as the Pre-Trial Judge.

(2) The Pre-Trial Judge shall review the indictment, which shall contain the charges against the accused. If satisfied that there is sufficient evidence to provide reasonable grounds for believing that a person has committed a crime within the jurisdiction of the Special Tribunal, the Pre-Trial Judge shall confirm the indictment or, where the indictment is against a head of State, head of government or minister of foreign affairs, suspend the proceedings in accordance with Article 23, paragraph 5, of this Statute. If the Pre-Trial Judge is not satisfied, the indictment or charges therein shall be dismissed.

(3) Upon confirmation of the indictment, the Pre-Trial Judge may, at the request of the Prosecutor, issue orders and warrants for the arrest, detention, surrender or transfer of persons to the Special Tribunal.

(4) Upon the surrender of the person to the Special Tribunal, or the person's appearance before the Special Tribunal voluntarily or pursuant to a summons, the Pre-Trial Judge shall satisfy him- or herself that the person has been duly informed of the crimes which he or she is alleged to have committed, and of his or her rights under this Statute, including the right to apply for interim release pending trial. The case shall thereafter be assigned by the President of the Special Tribunal to a Trial Chamber, from which the Pre-Trial Judge shall be excluded from serving.

Section 3 – Trial

Article 26 – Functions and powers of the Trial Chamber

(1) The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of witnesses.

(2) Upon assignment of a case for trial in accordance with Article 25, paragraph 4, of this Statute, the Trial Chamber shall:

(a) confer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings;

(b) determine the language or languages to be used at the trial; and

(c) subject to any other relevant provisions of this Statute, and in particular Article 24, paragraph 3.e, of this Statute, provide for the disclosure of documents or information not previously disclosed, sufficiently in advance of the commencement of the trial to enable adequate preparation for trial.

(3) The Trial Chamber shall also be responsible for ruling on any preliminary motions, including challenges to the indictment and jurisdiction, and to make any necessary orders or decisions to ensure the case is prepared properly and expeditiously for trial.

(4) The Trial Chamber may, if necessary for its effective and fair functioning, refer preliminary issues to the Pre-Trial Judge.

(5) Upon notice to the parties, the Trial Chamber may, as appropriate, join or sever charges against more than one accused.

(6) In performing its functions prior to trial or during the course of a trial, the Trial Chamber may, as necessary:

(a) require the attendance and testimony of witnesses and production of documents and other evidence by obtaining, if necessary, the assistance of States as provided in this Statute and any relevant co-operation agreements or arrangements;

(b) provide for the protection of confidential information;

(c) order the production of evidence in addition to that already collected prior to the trial or presented during the trial by the parties;

(d) provide for the protection of the accused and of witnesses; and

(e) rule on any other relevant matters.

(7) The Trial Chamber shall have, *inter alia*, the power, on application of a party or on its own motion, to:

(a) rule on the admissibility or relevance of evidence; and

(b) take all necessary steps to maintain order in the course of a hearing, including ordering the removal, detention or similar restriction against a non-compliant person.

(8) The Trial Chamber shall ensure that a complete record of the trial, which accurately reflects the proceedings, is made and that it is maintained and preserved by the Registrar.

Article 27 – Commencement and conduct of trial proceedings

(1) The Trial Chamber shall read the indictment to the accused, satisfy itself that the rights of the accused are respected and confirm that the accused understands the nature of the charges. It shall afford him or her the opportunity to make an admission of guilt in accordance with Article 29 of this Statute or to plead not guilty.

(2) Unless otherwise decided by the Trial Chamber in the interests of justice, the examination of witnesses shall commence with questions posed by the presiding judge, followed by questions posed by other members of the Trial Chamber, the Prosecutor and the defence counsel.

(3) At the trial, the presiding judge may give directions for the conduct of proceedings, including to ensure that they are conducted in a fair and impartial manner. Subject to any directions of the presiding judge, the parties may submit evidence in accordance with the provisions of this Statute and the Rules of Procedure and Evidence.

(4) The hearings shall be public unless the Trial Chamber decides to hold the proceedings in camera in accordance with this Statute and the Rules of Procedure and Evidence.

Article 28 – Proceedings in the absence of the accused

(1) Where, upon confirmation of the indictment under Article 25, paragraph 2, of this Statute, the accused does not appear before the Special Tribunal, the Special Tribunal may conduct proceedings in his or her absence:

(a) when he or she has waived his or her right to be present in an unequivocal manner; or

(b) if all reasonable steps have been taken to secure his or her appearance before the Special Tribunal and to inform the person of the charges and the consequences of his or her non-appearance before the Special Tribunal;

and the interests of justice so require.

(2) When hearings are conducted in the absence of the accused, the Special Tribunal shall ensure that:

(a) the accused has been duly notified or served with, or otherwise been given notice through publication in the media or communication to his or her State of residence or nationality of:

(i) the indictment;

(ii) the date, time and place of the hearing; and

(iii) the consequences of his or her non-appearance before the Special Tribunal; and

(b) the accused has designated a defence counsel of his or her own choosing, to be remunerated either by the accused or, if the accused is proved to be indigent, by the Special Tribunal; whenever the accused refuses or fails to appoint a defence counsel, such counsel is to be assigned by the Defence Unit with a view to ensuring full representation of the interests and rights of the accused.

(3) In case of a conviction in the absence of the accused, the convicted person shall have the right to a retrial in his or her presence before the Special Tribunal or a successor mechanism, unless he or she:

- (a) has waived in writing his or her right to a retrial; or
- (b) accepts the judgment.

Article 29 – Proceedings on an admission of guilt

(1) Where the accused makes an admission of guilt, the Trial Chamber shall determine whether:

- (a) the accused understands the nature and consequences of the admission of guilt;
- (b) the admission is voluntarily made by the accused after sufficient consultation with his or her defence counsel; and
- (c) the admission of guilt is supported by the facts of the case that are contained in:
 - (i) the charges brought by the Prosecutor and admitted by the accused;
 - (ii) any materials presented by the Prosecutor which supplement the charges and which the accused accepts; and
 - (iii) any other evidence, such as the testimony of witnesses, presented by the Prosecutor or the accused.

(2) Where the Trial Chamber is satisfied that the matters referred to in paragraph 1 of this article are established, it shall consider the admission of guilt, together with any additional evidence presented, as establishing all the essential facts that are required to prove the crime to which the admission of guilt relates, and it may convict the accused of that crime.

(3) Where the Trial Chamber is not satisfied that the matters referred to in paragraph 1 of this article are established, it shall consider the admission of guilt as not having been made, in which case it shall order that the trial be continued under the ordinary trial procedures provided by this Statute and may remit the case to another Trial Chamber.

(4) Where the Trial Chamber is of the opinion that a more complete presentation of the facts of the case is required in the interests of justice, in particular the interests of the victims, the Trial Chamber may:

- (a) request the Prosecutor to present additional evidence, including the testimony of witnesses; or
- (b) order that the trial be continued under the ordinary trial procedures provided by this Statute, in which case it shall consider the admission of guilt as not having been made and may remit the case to another Trial Chamber.

(5) Any discussions between the Prosecutor and the defence counsel regarding modification of the charges, the admission of guilt or the penalty to be imposed shall not be binding on the Special Tribunal.

Article 30 – Evidence

(1) Before testifying, each witness shall, in accordance with the Rules of Procedure and Evidence, give an undertaking as to the truthfulness of the evidence to be given by that witness.

(2) The testimony of a witness at trial shall be given in person. For purposes set forth in Article 21 of this Statute or in order to ensure efficiency and cost saving, the Special Tribunal may also permit the giving of viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.

(3) The parties may submit evidence relevant to the case. The Special Tribunal shall have the authority to request the submission of all evidence that it considers necessary for the determination of the truth.

(4) The Special Tribunal may rule on the relevance or admissibility of any evidence, taking into account, *inter alia*, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.

(5) The Special Tribunal shall respect and observe privileges on confidentiality and non-disclosure as provided for in this Statute and the Rules of Procedure and Evidence.

(6) The Special Tribunal shall not require proof of facts of common knowledge but may take judicial notice of them.

(7) Evidence obtained by means of a violation of this Statute or internationally recognised human rights shall not be admissible if:

(a) the violation casts substantial doubt on the reliability of the evidence; or

(b) the admission of the evidence would be antithetical to and would seriously damage the integrity of the proceedings.

(8) The Special Tribunal shall ensure the protection of personal information as provided for in the Rules of Procedure and Evidence.

Article 31 – Special rules on evidence collected prior to the establishment of the Special Tribunal or held by States or other entities

(1) Evidence collected prior to the establishment of the Special Tribunal by the competent authorities of Ukraine or any other national authorities, including those of States participating in the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA) in accordance with its mandate as set out in the agreement to establish the Joint Investigation Team, may be received by the Prosecutor in accordance with Chapter IV.

(2) Where the competent authorities of States other than Ukraine hold relevant information or evidence with regard to cases subject to the consideration of the Special Tribunal, the Special Tribunal may seek the co-operation of these States and request the transmission of the relevant information and evidence in accordance with Chapter IV.

(3) Where international organisations or entities hold relevant information, documents or evidence with regard to cases subject to the consideration of the Special Tribunal, the Special Tribunal may seek the co-operation of these international organisations or entities and request the transmission of the relevant information, documents and evidence in accordance with Chapter IV. This paragraph shall also apply to the transmission of evidence from Eurojust, in particular in relation to information and evidence stored in the Core International Crimes Evidence Database in accordance with Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA.

(4) When deciding on the relevance or admissibility of evidence collected by a State or any other entity, the Chambers shall decide pursuant to this Statute and the Rules of Procedure and Evidence. The weight to be given to any such evidence shall be determined by the Chambers.

Article 32 – Offences against the administration of justice

(1) The Special Tribunal shall have jurisdiction over the following offences against its administration of justice, when committed intentionally, by whatever means, including electronic means:

(a) giving false testimony when under an obligation to tell the truth;

(b) presenting evidence that the party knows is false or forged;

(c) corruptly influencing a witness, obstructing or interfering with the attendance or testimony of a witness, retaliating against a witness for giving testimony or destroying, tampering with or interfering with the collection of evidence;

(d) impeding, intimidating or corruptly influencing an official of the Special Tribunal for the purpose of forcing or persuading the official not to perform, or to perform improperly, his or her duties;

(e) retaliating against an official of the Special Tribunal on account of duties performed by that or another official;

(f) soliciting or accepting a bribe as an official of the Special Tribunal in connection with his or her official duties;

(g) seriously obstructing the proceedings of the Special Tribunal.

(2) The principles and procedures governing the Special Tribunal's exercise of jurisdiction over offences under this article shall be those provided for in the Rules of Procedure and Evidence. The conditions for providing international co-operation to the Special Tribunal with respect to its proceedings under this article shall be governed by the domestic laws of the requested State.

Article 33 – Protection of national security information

(1) Any organ of the Special Tribunal shall notify a State when it seeks to disclose information or documents of that State which that State has classified as pertaining to its national security interests.

(2) If a State learns that information or documents provided by the State are being, or are likely to be, disclosed at any stage of the proceedings, and it is of the opinion that disclosure would prejudice its national security interests, that State shall have the right to intervene in order to prevent disclosure of the information.

(3) If, in the opinion of a State, disclosure of information would prejudice its national security interests, all reasonable steps will be taken by the State, acting in conjunction with the Prosecutor, the defence counsel or the Chambers, as the case may be, to seek to resolve the matter by co-operative means.

(4) The above is without prejudice to the right of a State to refuse the execution of a request for disclosure of national security information if it considers that the execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests.

(5) The principles and procedures governing the application of this article shall be those provided for in the Rules of Procedure and Evidence.

Article 34 – Third party information or documents

(1) The Special Tribunal may request a State to provide a document or information in its custody, possession or control, which was disclosed to that State in confidence by another State or intergovernmental or international organisation.

(2) If the requested State informs the Special Tribunal that the originator of the document or information does not consent to disclosure to the Special Tribunal, the Special Tribunal shall endeavour to resolve the issue of disclosure with the originator directly, as appropriate.

(3) The principles and procedures governing the application of this article shall be those provided for in the Rules of Procedure and Evidence.

Article 35 – Requirements for decisions

(1) All the judges of the Trial Chamber shall be present at each stage of the trial and throughout their deliberations. The President of the Special Tribunal may designate one or more alternate judges to be present at each stage of the trial and to replace a member of the Trial Chamber if that member is unable to continue attending.

(2) The Trial Chamber's decision shall be based on its evaluation of the evidence and the entire proceedings. The decision shall not exceed the facts and circumstances described in the charges and any amendments to the charges. The Trial Chamber may base its decision only on evidence submitted and discussed before it at the trial.

(3) The judges shall attempt to achieve unanimity in their decision, failing which the decision shall be taken by a majority of the judges.

(4) The deliberations of the Trial Chamber shall remain secret.

(5) The decision shall be in writing and shall contain a full and reasoned statement of the Trial Chamber's findings on the evidence and conclusions. The Trial Chamber shall issue one decision. When there is a lack of unanimity, the Trial Chamber's decision shall contain the views of the majority and the minority. The decision or a summary thereof shall be delivered in open court.

(6) The written decision under this article shall be delivered within ten months from the date the closing statements end, unless special circumstances justify a delivery within fifteen months.

Section 4 – Penalties**Article 36 – Penalties for the crime of aggression**

(1) The Trial Chamber may impose the following penalties for the crime of aggression:

(a) imprisonment for a specified number of years, which may not exceed a maximum of thirty years; or

(b) a term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.

(2) In addition to imprisonment, the Trial Chamber may order:

(a) a fine under the criteria provided for in the Rules of Procedure and Evidence;

(b) the confiscation of instrumentalities, proceeds, property and assets derived directly or indirectly from the crime of aggression, without prejudice to the rights of bona fide third parties.

Article 37 – Transfer of funds collected through fines or confiscation measures

The Special Tribunal shall order funds collected through fines or confiscation measures to be transferred to an international mechanism, giving priority to a compensation mechanism established in accordance with United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 for reparation for damage, loss or injury, and arising from the internationally wrongful acts of the Russian Federation in or against Ukraine.

Article 38 – Penalties for offences against the administration of justice and sanctions against misconduct

(1) In the event of conviction for an offence against the administration of justice in accordance with Article 32 of this Statute, the Special Tribunal may impose a term of imprisonment not exceeding five years, a fine in accordance with the Rules of Procedure and Evidence or both.

(2) The Special Tribunal may sanction persons present before it who commit misconduct, including disruption of its proceedings or deliberate refusal to comply with its directions, by administrative measures other than imprisonment, such as temporary or permanent removal from the courtroom, a fine or other similar measures provided for in the Rules of Procedure and Evidence.

(3) The procedures governing the imposition of the measures set forth in paragraph 2 of this article shall be those provided for in the Rules of Procedure and Evidence.

Article 39 – Determination of the sentence

(1) In imposing the sentence, the Trial Chamber shall, in accordance with the Rules of Procedure and Evidence, take into account such factors as the gravity of the crime or offence and the individual circumstances of the convicted person, including any mitigating or aggravating factors as well as international human rights law.

(2) In determining the terms of imprisonment for the crime of aggression provided for in this Statute, the Trial Chamber shall, as appropriate, have recourse to international practice regarding prison sentences.

(3) In imposing a sentence of imprisonment, the Trial Chamber shall deduct the time, if any, previously spent in detention.

Section 5 - Appeal

Article 40 – Appeal against decision of acquittal or conviction, or against a sentence

(1) A decision of acquittal or conviction may be appealed in accordance with the Rules of Procedure and Evidence by the Prosecutor or the convicted person on any of the following grounds:

- (a) procedural error;
- (b) error of fact;
- (c) error of law; or
- (d) any other ground that affects the fairness or reliability of the proceedings or decision.

(2) A sentence may be appealed, in accordance with the Rules of Procedure and Evidence, by the Prosecutor or the convicted person on the ground of disproportion between the crime and the sentence.

Article 41 – Appeal against other decisions

(1) The Prosecutor or a person indicted or convicted by the Special Tribunal may appeal any of the following decisions, in accordance with the Rules of Procedure and Evidence:

- (a) a decision with respect to jurisdiction;
- (b) a decision granting or denying release of the person being investigated or prosecuted;
- (c) a decision that involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Pre-Trial Judge or Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings; or
- (d) other decisions referred to as being subject to appeal in the Rules of Procedure and Evidence.

(2) An appeal under paragraph 1 of this article shall not of itself have suspensive effect unless the Appeals Chamber so orders upon request and in accordance with the Rules of Procedure and Evidence.

Article 42 – Proceedings on appeal

(1) The Appeals Chamber shall have all the powers of the Trial Chamber.

(2) If the Appeals Chamber finds that the proceedings appealed against were unfair in a way that affected the reliability of the decision or sentence, or that the decision or sentence appealed against was materially affected by error of fact or law or procedural error, it may:

(a) reverse or amend the decision or sentence; or

(b) order a new trial before another trial chamber.

For these purposes, the Appeals Chamber may remand a factual issue to the original Trial Chamber for it to determine the issue and to report back accordingly, or it may itself call evidence to determine the issue. When the decision or sentence has been appealed only by the person convicted, or the Prosecutor on that person's behalf, it cannot be amended to his or her detriment.

(3) The Appeals Chamber may change a sentence imposed by the Trial Chamber if it considers that the sentence is disproportionate to the crime.

(4) The judgment of the Appeals Chamber shall be taken by a majority of the judges and shall be delivered in open court. The judgment shall state the reasons on which it is based. When there is a lack of unanimity, it shall contain the views of the majority and the minority, but a judge may deliver a separate or dissenting opinion on a question of law.

(5) The Appeals Chamber may deliver its judgment in the absence of the person acquitted or convicted.

Article 43 – Revision of conviction or sentences

(1) The convicted person or, after death, spouses, children, parents or one person alive at the time of that person's death who has been given express written instructions from that person to bring such a claim, or the Prosecutor on the person's behalf, may apply to the Appeals Chamber to revise the final judgment of conviction or sentence on the grounds that:

(a) new evidence has been discovered that:

(i) was not available at the time of trial, and such unavailability was not wholly or partially attributable to the party making the application; and

(ii) is sufficiently important that, had it been proved at trial, it would have been likely to have resulted in a different verdict;

(b) it has been newly discovered that decisive evidence, taken into account at trial and upon which the conviction depends, was false, forged or falsified; or

(c) one or more of the judges who participated in conviction or confirmation of the charges has committed, in that case, an act of serious misconduct or serious breach of duty of sufficient gravity to justify the removal of that judge or those judges from office.

(2) The Appeals Chamber shall reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:

- (a) reconvene the original Trial Chamber;
- (b) constitute a new Trial Chamber; or
- (c) retain jurisdiction over the matter;

with a view to, after hearing the parties in the manner set forth in the Rules of Procedure and Evidence, arriving at a determination on whether the judgment should be revised.

Article 44 – Compensation to an arrested person

(1) Anyone who has been the victim of unlawful arrest or detention on behalf of the Special Tribunal shall have an enforceable right to compensation.

(2) The principles and procedures governing the application of this article shall be those provided for in the Rules of Procedure and Evidence.

Article 45 – Release of detained persons

Persons detained in the Special Tribunal's detention facilities in the host State shall not be released in the host State. Instead, they shall be transported to and released in their State of nationality, in the State where they were originally detained, or if they do not have rights of residency in the latter, in a State where they are ordinarily or lawfully resident, or in another State that agrees to accept them.

CHAPTER IV – INTERNATIONAL CO-OPERATION AND MUTUAL LEGAL ASSISTANCE

Article 46 – Co-operation with the International Criminal Court

(1) The Special Tribunal shall co-operate with the International Criminal Court on all matters of mutual concern. The Special Tribunal may conclude agreements or practical arrangements with the International Criminal Court with a view to ensuring the effective exercise of their respective jurisdictions.

(2) Nothing in this Statute shall negate the existing obligations of States Parties to the Rome Statute of the International Criminal Court to co-operate fully with the International Criminal Court in its investigation and prosecution of crimes within its jurisdiction. Whenever a person subject to an arrest warrant by the International Criminal Court is detained in the detention facilities of the International Criminal Court, the Special Tribunal shall give priority to the proceedings before the International Criminal Court.

Article 47 – Co-operation with the United Nations, international organisations and other relevant international bodies

(1) The Special Tribunal may request the United Nations to provide information or documents, including in accordance with any existing agreements and arrangements between the Council of Europe and the United Nations. The Special Tribunal may ask any other international organisation or other relevant international bodies to provide information or documents.

(2) The Special Tribunal may also request other forms of co-operation and assistance which may be agreed upon with the United Nations, Eurojust or any other relevant organisation or body and which are in accordance with its competence or mandate.

(3) The Special Tribunal may enter into arrangements or agreements with these international organisations or bodies for the purposes defined in paragraphs 1 and 2 of this article.

Article 48 – Co-operation and mutual legal assistance

(1) The competent Ukrainian judicial authorities shall, in accordance with the provisions of the Agreement and this Statute, co-operate fully with all organs of the Special Tribunal. They shall facilitate access of the Prosecutor and the defence counsel to sites, persons and relevant documents required for the investigation. The competent Ukrainian judicial authorities shall in accordance with the Agreement and this Statute, comply

without undue delay with any request for assistance by any organ of the Special Tribunal including, but not limited to:

- (a) arrest, surrender, transfer or detention of persons;
- (b) execution of requests for mutual legal assistance for the purpose of procuring evidence or transmitting articles to be produced in evidence, records or documents;
- (c) service of documents.

(2) In addition, the Special Tribunal may make requests under any bilateral or multilateral mutual legal assistance agreement entered into by Ukraine or request Ukraine to do so on its behalf, as permitted by the national legislation of the requested State, such as the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30), its additional protocol (ETS No. 99), its second additional protocol (ETS No. 182) and the Ljubljana–The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and other International Crimes.

(3) The Special Tribunal may request the assistance and co-operation from members and associate members of the Management Committee as is necessary for the investigation and prosecution of persons for the crime of aggression against Ukraine.

(4) The Special Tribunal may enter into co-operation agreements or arrangements with members and associate members of the Management Committee for the crime of aggression against Ukraine. Such co-operation agreements or arrangements may, as necessary and appropriate, cover matters such as:

- (a) arrest, surrender, transfer or detention of persons;
- (b) the identification and whereabouts of persons or the location of items;
- (c) the taking of evidence, including testimony under oath, and the production of evidence, including expert opinions and reports necessary to the Special Tribunal;
- (d) the questioning of suspected or accused persons;
- (e) the service of documents, including judicial documents;
- (f) facilitating the voluntary appearance of persons as witnesses or experts before the Special Tribunal;
- (g) the temporary transfer of persons in custody for testimony or other purposes;
- (h) the examination of places or sites, including the exhumation and examination of grave sites;
- (i) the execution of searches and seizures;
- (j) the provision of records and documents, including official records and documents;
- (k) the protection of witnesses and the preservation of evidence;
- (l) the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties;

(m) the implementation of witness protection programmes, including, but not limited to, the provision of assistance in the relocation and safeguarding of witnesses, and ensuring their physical, psychological and emotional well-being; and

(n) any other type of assistance which is not prohibited by the law of the requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Special Tribunal.

(5) The Special Tribunal may invite any third State to provide assistance under this chapter on the basis of an agreement or arrangement with such State, an ad hoc arrangement, or any other appropriate basis. Such agreements and arrangements may cover, as necessary and appropriate, the matters enumerated in paragraph 4 of this article.

(6) The Special Tribunal may, upon request, co-operate with and provide assistance to members and associate members of the Management Committee conducting an investigation into or a trial in respect of conduct which constitutes a crime within the jurisdiction of the Special Tribunal, or which constitutes a serious crime under the national law of the requesting State.

CHAPTER V – ENFORCEMENT

Article 49 – Enforcement of sentences

(1) A sentence of imprisonment shall be served in a State that has concluded an agreement to this effect with the Special Tribunal.

(2) If several States have concluded such agreements, the President of the Special Tribunal shall designate the responsible State in any given case, by taking into account the need to ensure fair burden-sharing and after consultation with all States concerned regarding whether they are willing and able to execute the full sentence in compliance with the ruling of the Special Tribunal.

(3) If no State has concluded such an agreement the sentence may be served in Ukraine. Under no circumstances can any prison sentence be enforced in the host State.

Article 50 – Reduction of sentence

(1) The State of enforcement shall not release the person before expiry of the sentence pronounced by the Special Tribunal.

(2) The Special Tribunal shall have the right to decide any reduction of sentence or modification of the modalities for serving the sentence and shall rule on the matter after having heard the person.

(3) The procedures governing the imposition of the measures set forth in paragraph 2 of this article shall be those provided for in the Rules of Procedure and Evidence.

CHAPTER VI – FINAL CLAUSES

Article 51 – Rules and regulations of the Council of Europe

The administrative and financial rules and regulations of the Council of Europe are applicable to the Special Tribunal. The Committee of Ministers, upon a proposal by the Management Committee, may approve derogations from applicable Council of Europe rules and regulations if doing so is required for the efficient exercise of the Special Tribunal's functions.

Article 52 – Annual report and audit

(1) The President of the Special Tribunal shall prepare an annual activity report of the Special Tribunal for approval by the Management Committee. This public report shall specify, in particular, the pending and concluded investigations, prosecutions and decisions.

(2) The Registrar of the Special Tribunal shall assist the Secretary General in preparing the annual budget of expenditure of the Special Tribunal, for approval by the Management Committee.

(3) The Secretary General shall draw up the annual accounts of the Special Tribunal in accordance with the Financial Regulations of the Council of Europe (hereinafter "Financial Regulations"). The records, books and accounts of the Special Tribunal, including its annual financial statements, shall be audited annually by an independent auditor, as provided for in the Financial Regulations.

Article 53 – Efficiency and cost-effectiveness

(1) A phased-in approach shall be adopted for the establishment of the Special Tribunal. This includes the following:

(a) in a first phase, the Special Tribunal shall be set up without exercising jurisdiction. During this phase:

- (i) key administrative and support personnel of the Special Tribunal, such as the Registrar and the necessary core staff, shall take up their duties, as appropriate; and
- (ii) judges are appointed to the roster to elect the President of the Special Tribunal and to adopt the Rules of Procedure and Evidence;

(b) in a second phase, upon entry into force of the host State agreement, the Special Tribunal shall proceed with establishing its full judicial structure. The judges, the Prosecutor and the Deputy Prosecutors will take office on a date to be determined in accordance with this Statute and the Rules of Procedure and Evidence. Until such a date is set, judges may be convened on an ad hoc basis to address organisational matters and, as necessary, to perform their duties.

(2) As soon as the full judicial structure of the Special Tribunal has been established, the President of the Special Tribunal shall notify the Parties to the Agreement that the Special Tribunal has been constituted in accordance with this Statute. As from this moment, the Special Tribunal shall commence exercising its jurisdiction.

(3) The Special Tribunal shall undertake decisions aimed at ensuring its operations and proceedings achieve efficiency and cost-effectiveness. This includes the following:

(a) the Special Tribunal shall make all arrangements for mutual legal assistance and co-operation as may be necessary for the effective and efficient performance of the functions of the Special Tribunal regarding the reception and use of results of investigations carried out by the judicial authorities of other States into the crimes which are the subject matter of this Statute; and

(b) the Office of the Prosecutor and Registry shall make appropriate arrangements to ensure that there is a co-ordinated transition from investigations and evidence gathering by regional and international mechanisms.

Article 54 – Dissolution of the Special Tribunal upon fulfilment of its mandate and establishment of a residual mechanism

(1) When the President of the Special Tribunal confirms that:

(a) all investigations, pre-trial proceedings, trials and appeals commenced before the Special Tribunal have been completed and all possible appeal rights in such proceedings have lapsed, excluding any proceedings suspended in accordance with Article 23, paragraph 5, of this Statute; and

(b) in circumstances where a fugitive remains at large, the Prosecutor and the Registrar have taken all reasonable steps to ascertain the fugitive's whereabouts and secure his or her arrest and the proceedings foreseen by Article 28, paragraphs 1 and 2, of this Statute are finished;

the President of the Special Tribunal shall inform the Management Committee of the fulfilment of the mandate of the Special Tribunal, upon which the Management Committee may recommend to the Parties, in accordance with Article 13, paragraph 3, of the Enlarged Partial Agreement, to dissolve the Special Tribunal and to

establish a residual mechanism.

(2) Within a reasonable period of time after the recommendation referred to in paragraph 1 of this article and taking into account the transition plan adopted by the Management Committee in accordance with Article 13, paragraph 4, of the Enlarged Partial Agreement, the Parties shall establish a residual mechanism vested with the necessary personnel and financial resources to carry out any remaining prosecutorial functions, remaining judicial functions, including retrials in accordance with Article 28, paragraph 3, of this Statute, as well as to deal with any matters pertaining to:

- (a) the protection of witnesses;
- (b) the supervision of the enforcement of sentences; and
- (c) the processing of requests for early, interim and final release.

(3) The decision by the Parties to dissolve the Special Tribunal shall be effective one hundred and eighty days after the commencement of the functions of the residual mechanism. During this transition period, the Special Tribunal shall co-operate with the Parties to the Agreement and the Management Committee to ensure an orderly winding-down of operations and liquidation of obligations under all related agreements.
