



NEW YORK  
CITY BAR

**FOR IMMEDIATE RELEASE**

Contact: Eric Friedman  
[efriedman@nycbar.org](mailto:efriedman@nycbar.org)

Eli Cohen  
[ecohen@nycbar.org](mailto:ecohen@nycbar.org)

**U.S. Should Assist ICC in War Crimes Investigation  
Russian Federation’s Blatant Violation of UN Charter Creates  
Pivotal Moment for Rules-Based International Order  
and for Concerted Action by the International Community**

New York, May 5, 2022 – The New York City Bar Association has [written](#) to Congress and the Biden administration urging them to take prompt action to assist the International Criminal Court (ICC) in its investigation of war crimes in Ukraine by Russian Federation forces, including in the areas surrounding Kyiv, in Mariupol and at the Kramatorsk train station.

“We now call on the United States to abandon its prior reluctance to support the ICC so that the escalating pattern of war crimes being carried out in Ukraine can be properly investigated, adjudicated and sanctioned,” the City Bar writes. “We hope that these actions, which are authorized by the Dodd Amendment to the American Servicemembers’ Protection Act of 2002 (ASPA), can also be a first step in an overall reappraisal by our country of the role and importance of the ICC in building a lawful world that does not tolerate such criminal acts by national leaders.”

While more than 40 States Parties of the ICC have requested the Court to open an investigation into alleged atrocities committed in Ukraine, and while ICC Prosecutor Karim Khan has stated that “there is a reasonable basis” to open an investigation into alleged atrocities committed in Ukraine,” the United States is limited by law in the cooperation and assistance it can provide. The Foreign Relations Authorization Act for Fiscal Years 2000 and 2001 (FRAA) specifically prohibits the U.S. from donating funds or materiel to the ICC, and [ASPA] prohibits, among other things, providing staff training or the loan of personnel to the ICC or the sharing of intelligence with the ICC.

According to the letter, however, there is an important exception to these ASPA limitations – the so-called “Dodd Amendment” to the statute, which provides that “Nothing in [ASPA] shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Qaeda [sic], leaders of Islamic Jihad, *and other foreign nationals accused of genocide, war crimes or crimes against humanity.*” (Emphasis added.)

Separately, invoking its status as a United Nations Economic and Social Council-accredited civil society organization, the City Bar released a [statement](#) calling the Russian Federation’s “blatant violation” of the fundamental principles and purpose of the United Nations Charter “a pivotal moment for international law and the rules-based international order,” adding, “The failure to ensure accountability for grave violations of international humanitarian law (IHL), international criminal law (ICL), and international human rights law (IHRL) moreover would signal to perpetrators of atrocities around the globe the destruction of restraints against illegal acts of violence as a means to achieve political goals.”

While the City Bar welcomes the decision by the United Nations General Assembly to suspend the Russian Federation from its seat on the United Nations Human Rights Council, “the City Bar is deeply troubled by the inability of the United Nations Security Council to take constructive action to end the acts of aggression and atrocities committed by the Russian Federation,” the statement reads.

The statement also urges lawyers and bar associations “to explore ways in which they and their members can support the needs of persons and populations displaced by the conflict. This includes providing competent, diligent, and ethical pro bono legal assistance to these individuals and their families.”

In previous statements, the City Bar [condemned](#) the illegality of the Russian Federation’s invasion of Ukraine, [called for](#) the prompt investigation of alleged war crimes by Russian Federation forces and urged the establishment of an hoc tribunal on the crime of aggression against Ukraine, and [condemned](#) censorship of independent media reporting in Russia and apparent targeting of journalists in Ukraine.

Read the letter to U.S. government officials here: <https://bit.ly/38Q0N3Q>

Read the statement here: <https://bit.ly/385Y4TL>

#### **About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world. [www.nycbar.org](http://www.nycbar.org)*