

**OPINION OF THE COMMITTEE OF LEGAL ADVISERS ON
PUBLIC INTERNATIONAL LAW (CAHDI)
ON RECOMMENDATION 2266 (2024) OF THE PARLIAMENTARY ASSEMBLY OF THE
COUNCIL OF EUROPE ON "A DEMOCRATIC FUTURE FOR BELARUS"**

1. On 7-8 February 2024, the Ministers' Deputies, at their 1488th meeting, agreed to communicate Recommendation 2266 (2024) of the Parliamentary Assembly of the Council of Europe (PACE) on "[A democratic future for Belarus](#)" to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments.

2. The CAHDI recalls that its mandate is limited to questions related to public international law. It will hence be able to react only in relation to paragraphs 3 and 7.2 of Recommendation 2266 (2024) in which the Assembly:

- condemns the active support by the Lukashenka regime of the Russian Federation in its brutal war of aggression against Ukraine (paragraph 3), and,
- invites the Committee of Ministers to encourage member States to support and contribute to establishing a system of accountability for the crimes and human rights violations committed by the Lukashenka regime (paragraph 7.2).

3. While reiterating its unwavering support for attaining accountability for the alleged atrocity crimes committed since the beginning of the Russian Federation's invasion of Ukraine, including for the crime of aggression, as already underlined in the Opinion of the CAHDI on Recommendation 2231 (2022) of the PACE on "The Russian federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes", the CAHDI, furthermore, notes the call uttered by the Heads of State and Government at the 4th Summit of the Council of Europe in Reykjavik in May 2023 that "*the Council of Europe should participate, as appropriate, in relevant consultations and negotiations [of] and provide concrete expert and technical support to*" the Core Group on the establishment of a special tribunal for the crime of aggression against Ukraine. The Council of Europe is actively participating, through its Legal Adviser, in the work of the Core Group where discussions are ongoing concerning, *inter alia*, the jurisdictional scope of the future Special Tribunal that could also encompass the action of Belarus in allowing its territory, which it has placed at the disposal of the Russian Federation, to be used by the Russian Federation for perpetrating an act of aggression against Ukraine¹.

4. Besides following the work of the Core Group, the CAHDI remains seized with the matter of accountability for Ukraine and continues discussions on the issue of the prosecution of most serious crimes allegedly committed in Ukraine in the ongoing war of aggression. For instance, in the framework of this 66th plenary meeting, the CAHDI held, on 10 April 2024, a seminar with the title "*The Special Tribunal for the Crime of Aggression against Ukraine – what role for regional organisations such as the Council of Europe?*". The CAHDI stands ready to assist relevant competent Council of Europe bodies wherever it can offer its support related to questions of public international law.

¹ A/RES/3314(XXIX) of 14 December 1974, Article 3 (f).

5. Furthermore, in opinion of the CAHDI on Recommendation 2197 (2021) of the PACE on "*The Protection of Victims of Arbitrary Displacement*", it was emphasised that "the primary responsibility for prosecuting war crimes and crimes against humanity lies with the State or States with direct jurisdictional links with these crimes, notably those with territorial or personal jurisdiction". This position was confirmed in the reply of the CAHDI on Recommendation 2201 (2021) of the PACE titled "*Human rights violations in Belarus require an international investigation*".

6. Finally, CAHDI draws attention to the 2011 Committee of Ministers "*Guidelines on eradicating impunity for serious human rights violations*". Guideline XII of the Guidelines emphasises the importance of mutual legal assistance, prosecutions and extraditions, and cooperation to prevent and eradicate impunity.