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CDDH Study on the need for and feasibility of (an) additional non-binding instrument(s) to complement the 2011 Committee of Ministers' Guidelines on eradicating impunity for serious human rights violations

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I. Introduction

Terms of reference and working methods

1. The CDDH terms of reference for 2024-2027 require it to prepare a study on the need for and feasibility of (an) additional non-binding instrument(s) to complement the 2011 Committee of Ministers Guidelines on the eradication of impunity for serious human rights violations (the 2011 Guidelines). The deadline for completion of this study is 31 December 2025. At its 99th meeting (28 November – 1 December 2023), the CDDH adopted terms of reference for a Drafting Group on the eradication of impunity for serious human rights violations (CDDH-ELI), *inter alia*, instructing it to conduct preparatory work on the study.¹ The CDDH interpreted its terms of reference as encompassing the possibility of updating or otherwise revising the 2011 Guidelines, should this be a more appropriate way of addressing a particular issue than drafting (an) additional non-binding instrument(s).²

2. The CDDH-ELI held a total of five meetings between May 2024 and October 2025. At its first meeting, it discussed the scope of its future work and arranged the issues that it would address into five clusters: (1) issues related to the scope of the Guidelines and definitions; (2) issues related to cooperation; (3) issues related to criminal law; (4) issues related to the rights of victims; and (5) other issues.³

3. The CDDH-ELI also held a series of exchanges of views with experts:

- at its first meeting, on general questions, with Mykola GNATOVSKYY, Judge at the European Court of Human Rights, Emmanuel DECAUX, Chairperson of the René Cassin Foundation and former President of the United Nations Committee on Enforced Disappearances, Kerli VESKI, Vice-Chair of the Committee of Legal Advisers on Public International Law (CAHDI), Matt CANNOCK, Director of the Centre for International Justice, Amnesty International, and Alexandra SYTNYK, Lawyer at the Registry of the European Court of Human Rights;
- at its second meeting, on Clusters 1 and 2, with Jörg POLAKIEWICZ, Director of Legal Advice and Public International Law, Legal Adviser of the Council of Europe, Mirjam EKKART, Legal Advisor at the Department of International Affairs and Legal Assistance in Criminal Matters, Netherlands Ministry of Justice, Matevz PEZDIRC, Head of the Genocide Network Secretariat at the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network), Eurojust, Robert PETIT, Head of the International, Impartial and Independent Mechanism to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011 (IIIM), Frederic DOLT, Head of the Department for Execution of Judgments of the European Court of Human Rights, Council of Europe, Kate VIGNESWARAN, Director at the Global Accountability Initiative, International Commission of Jurists, and Chiara GABRIELE, Legal Coordinator, Accountability for Private Military and Security Actors at TRIAL International; and
- at its third meeting, on Clusters 2, 3, 4, and 5, with Amélie BECQUART, Judicial Cooperation Advisor at the Office of the Prosecutor, International Criminal Court (ICC), Paolina MASSIDDA, Principal Counsel at the Office of Public Counsel for Victims, ICC, Markiyan KLIUCHKOVSKYI, Executive Director, Register of Damage Caused by the

¹ See [CDDH-ELI\(2024\)01](#), “Terms of reference for the CDDH Drafting Group on the eradication of impunity for serious human rights violations.” The CDDH-ELI terms of reference also anticipate the possibility of the Committee of Ministers, on the basis of the eventual study, instructing the CDDH to draft an (additional) non-binding instrument.

² See [CDDH\(2024\)R100](#), “Report of the 100th meeting of the CDDH.”

³ See [CDDH-ELI\(2024\)06](#), “Work programme of the CDDH-ELI,” for further details.

Aggression of the Russian Federation against Ukraine, and Johanna NELLES, Executive Secretary to the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, the Istanbul Convention).

Context and purpose of the study

4. The primary objective of this study is to assess the necessity and feasibility of developing (an) additional non-binding instrument(s) to complement the 2011 Guidelines to assist the Committee of Ministers in determining if there is a need to strengthen relevant standards to combat impunity for serious human rights violations. To do so, the study analyses gaps and possible imprecisions in the 2011 Guidelines, taking into account recent developments in case-law and trends in international law. It also examines potential challenges in combatting impunity for serious human rights violations that are not or not sufficiently covered by the 2011 Guidelines. The study further addresses possible ways of overcoming those challenges, by assessing different options, including updating, revising or complementing the existing guidelines.

5. The terms of reference of the CDDH for 2024-2027 were adopted by the Committee of Ministers following the Fourth Summit of Heads of State and Government of the Council of Europe held on 16–17 May 2023, which took place in the context of Russia’s war of aggression against Ukraine. In the Reykjavík Declaration adopted at the Fourth Summit, the Heads of State and Government of the Council of Europe recalled the “exigent necessity to ensure comprehensive accountability in the context of the Russian Federation’s aggression against Ukraine.”⁴ The study considers whether a possible complementary instrument or instruments to the 2011 Guidelines could contribute to this aim. In this context, in February 2024, two years after Russia launched its war of aggression, the Committee of Ministers adopted further decisions on the consequences of the aggression of the Russian Federation against Ukraine, stressing “the urgent need to ensure a comprehensive system of accountability for serious violations of international law arising out of the Russian aggression in order to avoid impunity, prevent further violations and ensure just and lasting peace”, and reiterating “their decision to make sure that the Council of Europe mobilises all its instruments to ensure the Russian Federation’s full accountability for violations of human rights”.⁵ On 25 June 2025, the Secretary General of the Council of Europe and Ukraine’s President Volodymyr Zelenskyy signed an agreement on the establishment of a Special Tribunal for the Crime of Aggression against Ukraine, including the Statute of the Special Tribunal.⁶

Content and scope of the 2011 Guidelines

6. The 2011 Guidelines were also prepared by the CDDH, with preparatory work then conducted by the Committee of Experts on Impunity (DH-I). The 2011 Guidelines drew on, *inter alia*, the standards of the European Convention on Human Rights (Convention), as interpreted by the case-law of the European Court of Human Rights (Court), and the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). They also take account of the work of other international organisations, notably the Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of the United Nations (UN) Commission on Human Rights and the UN General Assembly’s Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

⁴ [Reykjavík Declaration, “United around our values,”](#) adopted at the Fourth Summit of Heads of State and of Government of the Council of Europe on 16-17 May 2023, p. 10.

⁵ [CM/Del/Dec\(2024\)1490/2.3](#), “Consequences of the aggression of the Russian Federation against Ukraine,” adopted by the Ministers’ Deputies at their 1490th meeting on 21 and 23 February 2024, preamble and para. 4.

⁶ See [Agreement between the Council of Europe and Ukraine on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine](#), signed on 25 June 2025.

7. The 2011 Guidelines define “serious human rights violations” as “those acts in respect of which states have an obligation under the Convention, and in the light of the Court’s case-law, to enact criminal law provisions.”⁷

8. The 2011 Guidelines cover the following issues:

- General measures for the prevention of impunity, including measures to avoid loopholes or legal gaps contributing to impunity, the public condemnation of serious violations of human rights, and policies and measures for preventing and combating an institutional culture promoting impunity.
- Safeguards to protect persons deprived of their liberty from serious human rights violations, in order to prevent any unlawful detention or ill-treatment and ensure that they do not go unpunished, should they occur.
- The duty to investigate under Article 2 (right to life) of the Convention, Article 3 (the prohibition of torture and inhuman or degrading treatment or punishment), Article 4 (the prohibition of slavery and forced labour), certain aspects of Article 5 (the right to liberty and to security of person), Article 8 (the right to respect for private and family life), as well as the duty to prosecute, where warranted by the results of the investigation, and the criteria for an effective investigation.
- The criteria for an effective investigation, namely adequacy, thoroughness, impartiality and independence, promptness, and public scrutiny.
- The involvement of victims in the investigation, in particular the modalities of their participation in the investigation and in the proceedings as well as protection measures.
- The duty to prosecute and the applicability of the essentially requirements for an effective investigation to the prosecution stage.
- Court proceedings, including essential criteria for a fair trial.
- The need to impose a suitable penalty, with sentences being effective, proportionate and appropriate to the offence committed.
- Full and speedy implementation of domestic court judgments by the competent authorities.
- International cooperation, with States being encouraged to intensify cooperation beyond their existing obligations.
- The accountability of subordinates.
- Restricting legitimate restrictions and limitations on investigations and prosecutions to the minimum necessary to achieve their aim.
- The establishment of non-judicial mechanisms to complement domestic judicial remedies.

⁷ See 2011 Guidelines, II.3.

- Measures to ensure that victims of serious human rights violations receive prompt and adequate reparation for the harm suffered.

II. Examination of the Issues

1. Cluster 1: Issues related to Scope and Definitions

i. The Scope of the Guidelines

9. The 2011 Guidelines draw on several sources, including the Convention, as interpreted by the case-law of the Court, and the work of the CPT.⁸

10. The CDDH recognises that impunity for serious human rights violations often extends beyond the European sphere.⁹ As highlighted during the first exchange of views, the Convention must be viewed as interconnected with broader international law, including international humanitarian law, international criminal law and the rules on the prohibition of the use of force.¹⁰

11. Significant developments have occurred since the adoption of the 2011 Guidelines. In August 2014, the Council of Europe Istanbul Convention entered into force, emphasising the need for eradication of impunity for violence against women and domestic violence.¹¹ A UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence has focused on the rights to truth, reparation and non-repetition since September 2011.¹² Additionally, a Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes, and Other International Crimes (Ljubljana-The Hague Convention on Mutual Legal Assistance) was adopted in May 2023, aiming to enhance cooperation to combat impunity for the most serious crimes of concern to the international community as a whole.¹³ In November 2024, the Sixth Committee (Legal) of the UN General Assembly adopted a Resolution to advance the International Law Commission (ILC)'s Draft articles for the prevention and punishment of crimes against humanity to treaty negotiations.¹⁴

12. Since 2011, several new courts and mechanisms have been established to address serious international crimes and human rights violations. In 2013, the Extraordinary African Chambers in the Senegalese Courts were created through an agreement between the African Union and Senegal. These chambers were mandated to prosecute international crimes committed in Chad between 1982 and 1990. In 2015, the Kosovo¹⁵ Specialist Chambers and Specialist Prosecutor's

⁸ See 2011 Guidelines, preamble.

⁹ See [CDDH-ELI\(2024\)09](#), Background document – Issues related to the scope of the Guidelines and definitions (Cluster 1), paras. 3-5.

¹⁰ See [CDDH-ELI\(2024\)05](#), Key points made by Mykola Gnatovskyy. See also [CDDH Report](#), "The place of the European Convention on Human Rights in the European and international legal order," November 2019.

¹¹ The [Convention on Preventing and Combatting Violence Against Women and Domestic Violence](#) (CETS No. 210, Istanbul Convention) entered into force in 2014 – to date, it has been ratified by 39 Council of Europe member States, and the European Union (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

¹² See [CDDH-ELI\(2024\)05](#), Key points made by Emmanuel Decaux.

¹³ Preamble of the [Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and other International Crimes](#) (Ljubljana-The Hague Convention on Mutual Legal Assistance), adopted on 26 May 2023, and signed by 37 states as of February 2025.

¹⁴ See Sixth Committee (Legal) of the UN General Assembly, "[Upholding Tradition of Consensus in Historic Meeting, Approves Text to Begin Elaborating International Convention on Crimes Against Humanity](#)," 22 November 2024. See also A/C.6/79/L.2/Rev.1, Sixth Committee (Legal) of the UN General Assembly, "[United Nations Conference of Plenipotentiaries on Prevention and Punishment of Crimes against Humanity](#)," 15 November 2024 and [Draft articles on Prevention and Punishment of Crimes Against Humanity](#), adopted by the ILC at its seventy-first session, 2019.

¹⁵ All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Office were established as part of Kosovo's judicial system and staffed with international judges and prosecutors. Their mandate is to investigate and prosecute crimes against humanity, war crimes and other crimes related to the Kosovo conflict of the late 1990s. A Special Criminal Court in the Central African Republic has been operational since 2018, as a hybrid court mandated to investigate and prosecute serious human rights violations committed in the Central African Republic since 2003.

13. The International, Impartial and Independent Mechanism in assisting the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011 (IIIM) was established by the UN General Assembly in December 2016. Its mandate is to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in Syria since March 2011. In October 2025, the UN Human Rights Council adopted a resolution establishing an Independent Investigative Mechanism for Afghanistan, mandated to collect, consolidate, preserve, and analyse evidence of serious crimes and violations committed in Afghanistan, and preparing case files to facilitate future criminal proceedings.¹⁶

14. The geopolitical context has also evolved. The Court has received growing numbers of applications relating to systematic and severe human rights violations, including those arising from armed conflict and mass violence, necessitating further exploration of the interplay between the Convention and international humanitarian law in its recent jurisprudence.¹⁷ The Russian Federation's war of aggression against Ukraine underscores the importance of holding perpetrators accountable to prevent further violations and eradicate impunity.¹⁸ Moreover, in 2023, the CDDH acknowledged that the most serious forms of transnational repression, such as assassinations, enforced disappearances or forced renditions, may amount to serious human rights violations and therefore fall within the scope of the 2011 Guidelines.¹⁹ The growing prevalence of transnational repression in several member States highlights the need to strengthen efforts to fight impunity at all levels and to enhance international cooperation in this regard.

15. Two mechanisms for investigation of serious human rights violations are currently active in Europe: the Group of Human Rights Experts on Belarus, established on 4 April 2024 to, among other tasks, investigate and establish the facts, circumstances and root causes of all alleged human rights violations and abuses committed in Belarus since 1 May 2020; and the Independent International Commission of Inquiry on Ukraine, established on 4 March 2022 to, *inter alia*, investigate all alleged violations and abuses of human rights and violations of international humanitarian law, and related crimes in the context of the aggression against Ukraine by the Russian Federation, and to establish the facts, circumstances and root causes of any such violations and abuses.

16. In 2022, the UN General Assembly adopted a resolution, recognising that the Russian Federation must be held to account for any violations of international law in or against Ukraine, and bear the legal consequences of all of its internationally wrongful acts, including making reparation

¹⁶ See [A/HRC/60/L.9](#), Human Rights Council Resolution, "Situation of human rights in Afghanistan," 8 October 2025, para. 25.

¹⁷ See [CDDH-ELI\(2024\)05](#), Key points made by Mykola Gnatovskyy. See also [CDDH Report](#) on the effective processing and resolution of cases relating to inter-State disputes, December 2022; [Declaration of the Committee of Ministers on the effective processing and resolution of cases relating to inter-State disputes](#), adopted at the 1462nd meeting of the Ministers' Deputies on 5 April 2023.

¹⁸ See Declarations of the Committee of Ministers, "Consequences of the aggression of the Russian Federation against Ukraine," [CM/Del/Dec\(2024\)1490/2.3](#), adopted at the 1490th meeting of the Ministers' Deputies on 21 and 23 February 2024; [CM/Del/Dec\(2023\)1457bis/2.3](#) adopted at the 1457bis meeting of the Ministers' Deputies on 24 February 2023; [CM/Del/Dec\(2022\)1442/2.3](#) adopted at the 1442nd meeting of the Ministers' Deputies on 14 and 15 September 2022.

¹⁹ See Committee of Ministers [Reply to Recommendation 2257\(2023\)](#), adopted on 5 February 2025.

for injury, including any damage, caused by such acts. It also recognised the need to establish an international reparation mechanism for damage, loss or injury arising from the internationally wrongful acts of the Russian Federation in or against Ukraine.²⁰ The Council of Europe has actively engaged in combating impunity, as emphasised in the Reykjavík Declaration.²¹ The Council has undertaken active efforts towards accountability for Ukraine and addressing possible legal gaps that might lead to impunity, notably through the establishment of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine.²² The Council is also taking a leading role for the creation of an international Claims Commission and an *ad hoc* tribunal for Ukraine.²³ On 25 June 2025, the Secretary General of the Council of Europe and the President of Ukraine signed an agreement on the establishment of such a Special Tribunal, including its Statute.²⁴ On 3 September 2025, the Committee of Ministers adopted the terms of reference of the Ad-hoc Committee on the Establishment of an international Claims Commission for Ukraine (CAHEC),²⁵ which finalised a draft Convention establishing an international Claims Commission for Ukraine on 12 September 2025. On 22 October 2025, the Committee of Ministers approved the draft Convention in view of its adoption.²⁶ It is an open Convention of the Council of Europe, to which non-Council of Europe member States can become parties, ensuring the objective of a broad international participation in the Claims Commission. In addition, PACE recommended that the Committee of Ministers of the Council of Europe “explore methodologies and initiatives to ensure accountability for the repression in Belarus, through national, regional and international procedures” and “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.”²⁷ In its response, and in light of Belarus’ participation in the aggression of the Russian Federation against Ukraine, the Committee of Ministers referred to the progress made by the Core Group towards the establishment of the Special Tribunal for the crime of aggression.²⁸ The Statute of the Special Tribunal provides that any individual bearing the greatest responsibility for the crime of aggression against Ukraine could be investigated, prosecuted and tried, irrespective of their nationality.²⁹ The Committee of Ministers also committed itself to following the activities of the panel of independent experts on Belarus established by the UN Human Rights Council to investigate grave ongoing abuses, collect and preserve evidence of international crimes, and identify those responsible.³⁰

17. The CDDH considers that these developments justify expanding the scope of the 2011 Guidelines to address accountability more comprehensively, incorporating a wider range of international and regional standards. Accordingly, the CDDH recommends that these developments could be taken into account when assessing the need and feasibility to revise the

²⁰ See [A/Res/ES-11/5](#), UN General Assembly Resolution, “Furtherance of remedy and reparation for aggression against Ukraine,” adopted on 14 November 2022, paras. 2 and 3.

²¹ See [Reykjavík Declaration, “United around our values.”](#) *op. cit.*

²² See [CDDH-ELI\(2024\)05](#), Key points made by Kerli Veski; [CDDH-ELI\(2024\)12](#), Key points made by Jörg Polakiewicz. See also [Resolution CM/Res\(2023\)3](#) establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, adopted by the Committee of Ministers at the 1466th meeting of the Ministers’ Deputies on 12 May 2023 and amended at the 1476th meeting of the Ministers’ Deputies on 27 September 2023.

²³ See [CDDH-ELI\(2024\)12](#), Key points made by Jörg Polakiewicz.

²⁴ See [Agreement on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine](#), *op. cit.*

²⁵ See [CM\(2025\)31-final](#), Terms of reference of the Ad hoc Committee on the Establishment of an international Claims Commission for Ukraine (CAHEC), adopted at the 1535th meeting of the Ministers’ Deputies on 3 September 2025.

²⁶ See [CM\(2025\)139-final](#), Draft Convention establishing an International Claims Commission for Ukraine, adopted at the 1541st meeting of the Ministers’ Deputies on 22 October 2025.

²⁷ See [PACE Recommendation 2266 \(2024\)](#), “A democratic future for Belarus,” adopted on 25 January 2024, para. 7.

²⁸ See [Committee of Ministers Reply to Recommendation 2266\(2024\)](#), adopted on 15 October 2024, para. 8.

²⁹ See [Agreement on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine](#), *op. cit.*, Article 1 of Annex Statute of the Special Tribunal for the Crime of Aggression against Ukraine; See also [Frequently Asked Questions - Special Tribunal for the Crime of Aggression against Ukraine - Portal](#), Question 6.

³⁰ See [Committee of Ministers Reply to Recommendation 2266\(2024\)](#), *op. cit.* para. 9.

2011 Guidelines and/or adopt (an) additional non-binding instrument(s), including when considering updating definitions of impunity and serious human rights violations.

ii. Definition of Impunity

18. The 2011 Guidelines define “impunity” as follows:

“Impunity arises where those responsible for acts that amount to serious human rights violations are not brought to account”.³¹

“These guidelines deal with impunity for acts or omissions that amount to serious human rights violations and which occur within the jurisdiction of the state concerned.”³²

19. The 2011 definition of impunity focuses specifically on the failure to hold perpetrators accountable.³³ While the CDDH initially considered revising this definition to ensure greater legal certainty, and clarify the different forms of proceedings it encompasses, it concluded that the current wording already offers sufficient breadth. In particular, the phrase “not brought to account” allows for various forms of legal responsibility to be included, even if the definition remains focused on perpetrators rather than victims.

20. The CDDH also considered the possible alignment of the 2011 definition with that found in the UN Updated Set of Principles for the protection and promotion of human rights through action to combat impunity, which refers explicitly to various forms of legal proceedings (criminal, civil, administrative, or disciplinary proceedings).³⁴ However, the CDDH agreed that the flexibility embedded in the 2011 definition – notably through the use of the term “brought to account” – should be preserved, as it allows for a broad range of accountability mechanisms.

21. However, a revised definition could incorporate the concept of addressing “enabling environments” that foster impunity, such as lack of access to justice or remedies, lack of judicial independence, state policies obstructing accountability processes, or insufficient political will.

22. Additionally, the CDDH addressed the jurisdictional limitations in the 2011 definition, recognising the need to account for extraterritorial jurisdiction where it arises in accordance with the case-law of the Court, and taking note of views expressed by PACE.³⁵ The CDDH agrees that the 2011 definition of impunity may be too restrictive if it only covers serious human rights violations occurring within the jurisdiction of the state concerned. While restricting the jurisdiction of the state concerned is important in the context of establishing the responsibility of that state, the fight against impunity extends beyond those acts for which the state concerned is responsible. Consequently, to reflect this broader perspective, it is proposed to clarify jurisdictional issues relating to specific obligations or commitments in (an) additional non-binding instrument(s), or in revised Guidelines.

³¹ See 2011 Guidelines, I.1.

³² See 2011 Guidelines, II.1.

³³ See [CDDH-ELI\(2024\)09](#), paras. 6-10.

³⁴ [E/CN.4/2005/102/Add.1](#), UN Updated Set of Principles for the protection and promotion of human rights through action to combat impunity (UN Updated Set of Principles), Commission on Human Rights, 8 February 2005, p. 6: “Impunity means the impossibility, de jure or de facto, of bringing the perpetrators of violations to account – whether in criminal, civil, administrative or disciplinary proceedings – since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims.”

³⁵ PACE [Resolution 2509 \(2023\)](#), “Transnational repression as a growing threat to the rule of law and human rights,” adopted on 23 June 2023, para. 10.

iii. Definition of Serious Human Rights Violations

23. The 2011 Guidelines defines “serious human rights violations” as:

“those acts in respect of which states have an obligation under the Convention, and in the light of the Court’s case-law, to enact criminal law provisions. Such obligations arise in the context of the right to life (Article 2 of the Convention), the prohibition of torture and inhuman or degrading treatment or punishment (Article 3 of the Convention), the prohibition of forced labour and slavery (Article 4 of the Convention) and with regard to certain aspects of the right to liberty and security (Article 5, paragraph 1, of the Convention) and of the right to respect for private and family life (Article 8 of the Convention). Not all violation of these articles will necessarily reach this threshold.”³⁶

24. The CDDH determined that this definition should be retained but could be expanded to account for international legal developments.³⁷

25. It is recommended that the revised definition includes international crimes, consistent with the Court’s examination of such violations in its case-law,³⁸ particularly in the context of the Russian Federation’s war of aggression against Ukraine. A similar approach has been taken in other relevant instruments.³⁹ It was agreed that there is a need to revise the scope of the Guidelines to cover also violations of international criminal law and serious violations of international humanitarian law.

26. The CDDH also proposed adding a second category of acts that could qualify on account of their scale, widespread nature or systematic occurrence, while ensuring that isolated acts could still be covered on account of their gravity. Consequently, it is recommended that the scale requirement only applies to serious human rights violations that would not normally amount to criminal offences.

27. The 2011 Guidelines do not refer to peremptory norms. Explicit reference to such norms would strengthen alignment with international law generally, emphasising accountability for universally recognised violations and addressing barriers to justice.⁴⁰ Their inclusion would provide clarity, ensuring that the Guidelines are to be seen in the context of broader international developments. The CDDH agrees on the need to consider a more robust approach,⁴¹ not only by highlighting the importance of peremptory norms in the definition, but also noting that measures to combat impunity are particularly important in the context of violations of peremptory norms. The

³⁶ See 2011 Guidelines, II.3.

³⁷ See [CDDH-ELI\(2024\)09](#), paras. 11-19.

³⁸ Key Theme – [Article 7 - International crimes](#), Registry of the European Court of Human Rights, last updated on 31 August 2025. See also [CDDH-ELI\(2024\)09](#), paras. 24-30.

³⁹ For instance, the UN Updated Set of Principles encompasses serious crimes under international law and states that “[a]s used in these principles, the phrase ‘serious crimes under international law’ encompasses grave breaches of the Geneva Conventions of 12 August 1949 and of Additional Protocol I thereto of 1977 and other violations of international humanitarian law that are crimes under international law, genocide, crimes against humanity, and other violations of internationally protected human rights that are crimes under international law and/or which international law requires States to penalize, such as torture, enforced disappearance, extrajudicial execution, and slavery.” See [UN Updated Set of Principles](#), *op. cit.*, p. 6. The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN Basic Principles and Guidelines on the Right to a Remedy and Reparation) refer to “gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, [and with respect to which] States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him.” See [A/RES/60/147](#), adopted by the UN General Assembly on 16 December 2005, Principle III.4.

⁴⁰ See [CDDH-ELI\(2024\)09](#), paras. 20-23.

⁴¹ *Ibid.*, para. 23.

Guidelines could also underline that different violations entail different obligations, in that violations of peremptory norms might justify a different approach in certain aspects, including but not limited to questions of amnesties or statute of limitation.

28. The 2011 definition of serious human rights violations lists articles of the Convention. To ensure continuing relevance, a non-exhaustive list of examples of violations could replace the current list of Convention articles in revised Guidelines and/or (an) additional non-binding instrument(s). In light of current developments in international law and the possible inclusion of new offences under the Rome Statute of the International Criminal Court (ICC),⁴² this approach would ensure that the Guidelines or an additional non-binding instrument remain valid without the foreseeable need for a revision.

29. The CDDH examined the need to retain the criminalisation obligation as referred to in the 2011 definition. The criminalisation obligation should remain in order to avoid a complete revision of the Guidelines. In addition, member States could be encouraged to align domestic laws with international standards so as to address impunity effectively, as failure to integrate properly international crimes into domestic law can result in a failure to adequately investigate and prosecute them.⁴³

iv. Definitions of Perpetrators and Victims

30. The CDDH discussed the possibility of broadening the definitions of “perpetrators” and “victims” to enhance their impact and inclusivity. The 2011 Guidelines define these terms as follows:

“In the guidelines, the term “perpetrators” refers to those responsible for acts or omissions amounting to serious human rights violations.”⁴⁴

“In the guidelines, the term “victim” refers to a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, caused by a serious human rights violation. The term “victim” may also include, where appropriate, the immediate family or dependants of the direct victim. A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.”⁴⁵

31. The CDDH considered whether both definitions could include legal entities.⁴⁶ It was determined that the 2011 definition of “perpetrators” is sufficiently broad to encompass both natural and legal persons.

32. Conversely, the definition of “victims” is explicitly restricted to natural persons. To ensure a more inclusive approach to accountability, the CDDH proposes replacing “natural persons” with “those who have suffered,” thereby aligning the definition of “victims” with that of “perpetrators.”

⁴² Particular attention should be paid to the pending proposals of amendments to include slave trade as a crime against humanity, slavery and the slave trade as war crimes, and ecocide as a crime under the Rome Statute. See Assembly of States Parties, “[Report of the Working Group on Amendments](#),” ICC-ASP/23/26, 1 December 2024. See also [CDDH-ELI\(2024\)05](#), Key points made by Emmanuel Decaux; [CDDH-ELI\(2024\)12](#), Key points made by Kate Vigneswaran; ILC [Draft articles for the Prevention and Punishment of Crimes against Humanity](#), *op. cit.*

⁴³ See [CDDH-ELI\(2024\)09](#), paras. 27-29.

⁴⁴ See 2011 Guidelines, II.4.

⁴⁵ See 2011 Guidelines, II.5.

⁴⁶ See [CDDH-ELI\(2024\)12](#), Key points made by Kate Vigneswaran and Chiara Gabriele.

v. States' Responsibility for Serious Human Rights Violations

33. The CDDH discussed the inclusion of states' responsibility for serious human rights violations in the 2011 Guidelines, particularly from the perspective of inter-state cases.⁴⁷ Article 33 of the Convention allows a State Party to bring before the Court an alleged breach of the Convention by another State Party. In April 2022, PACE encouraged Council of Europe member States to utilise inter-state applications under Article 33 of the Convention to hold the Russian Federation accountable for alleged violations of the Convention and its Protocols up to 16 September 2022.⁴⁸ The Assembly further noted that "the European Court of Human Rights [...] can hold the Russian Federation accountable for human rights violations committed by Russian troops."⁴⁹ In the Reykjavík Declaration, the Heads of State and of Government of the Council of Europe reaffirmed their commitment to supporting "the Court's efforts to ensure that, through the expeditious processing of individual and inter-state applications, in particular those arising from conflicts, States are held accountable for their actions."⁵⁰ In this context, on 25 June 2024 and on 9 July 2025, the Grand Chamber of the Court held the Russian Federation accountable for multiple violations concerning Crimea and for the widespread and flagrant abuses of human rights arising from the conflict in Ukraine since 2014, in violation of its obligations under the Convention.⁵¹

34. Since the Convention's entry into force in 1953, the Court has handled more than 30 inter-state cases, most of which addressed events linked to crises or conflict.⁵² In recent years, the number of inter-state cases has risen sharply, with 16 cases currently pending before the Court, 12 of which were lodged since 2020.⁵³ This trend underscores the importance of ensuring the Court's capacity to fulfil its role as defined under Article 19 of the Convention. As underlined by the Committee of Ministers in its Declaration on the effective processing and resolution of cases relating to inter-state disputes, states involved in inter-state cases and related individual applications must fully comply with their obligations under Article 38, as interpreted by the Court.⁵⁴ This includes providing timely and comprehensive responses to the Court's requests for information and evidence.

35. Outside the European sphere, the number of inter-state cases brought before the International Court of Justice (ICJ) involving allegations of serious human rights violations has also seen a recent increase. These cases relate to the application of the Convention on the Prevention and Punishment of the Crime of Genocide,⁵⁵ the Convention against Torture and Other Cruel,

⁴⁷ See [CDDH-ELI\(2024\)09](#), paras. 31-36.

⁴⁸ PACE [Resolution 2436 \(2022\)](#), "The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes," adopted on 28 April 2022, para. 11.8. The Russian Federation ceased to be a party to the Convention on 16 September 2022, meaning that its obligation under Article 1 to secure Convention rights and freedoms to everyone within its jurisdiction came to an end on that date.

⁴⁹ *Ibid*, para. 9.

⁵⁰ See [Reykjavík Declaration "United around our values,"](#) *op. cit.*, Appendix IV "Recommitting to the Convention system as the cornerstone of the Council of Europe's protection of human rights," p. 17.

⁵¹ [Ukraine v. Russia \(Re Crimea\)](#) [GC], appl. nos. 20958/14 and 38334/18, 25 June 2024; [Ukraine and the Netherlands v. Russia](#) [GC], appl. nos. 8019/16, 43800/14, 28525/20 and 11055/22, 9 July 2025.

⁵² See [Questions and answers on inter-State cases](#), Press Unit of the European Court of Human Rights, July 2025, p. 1.

⁵³ See [Memorandum of the European Court of Human Rights](#), adopted by the Plenary Court on 20 March 2023 in view of the Fourth Summit of the Heads of State and Government of the Council of Europe, paras. 20-21. [Questions and answers on inter-State cases](#), *op. cit.*; See also the [page on inter-state applications](#) on the Court's website.

⁵⁴ [Declaration by the Committee of Ministers on the effective processing and resolution of cases relating to inter-State disputes](#), adopted by the Ministers' Deputies at their 1462nd meeting on 5 April 2023. See also Report on the effective processing and resolution of cases relating to inter-State disputes ([CDDH\(2022\)R97 Addendum 3](#)), adopted by the CDDH at its 97th meeting on 6-9 December 2022, p. 2.

⁵⁵ See International Court of Justice (ICJ), [Bosnia and Herzegovina v. Serbia and Montenegro](#); [Croatia v. Serbia](#); [The Gambia v. Myanmar](#); [Ukraine v. Russian Federation](#) and [South Africa v. Israel](#).

Inhuman or Degrading Treatment or Punishment,⁵⁶ and the International Convention on the Elimination of All Forms of Racial Discrimination.⁵⁷

36. The CDDH recognises that inter-state cases play an important, complementary role in accountability strategies and addressing impunity. Including states' responsibility for serious human rights in revised Guidelines and/or (an) additional non-binding instrument(s) would underscore the increasing importance of inter-state cases in combating serious human rights violations. Furthermore, it was proposed to highlight the subject matter of recent inter-state cases, as most of them concern issues related to serious human rights violations.

2. Cluster 2: Issues related to Cooperation

37. The CDDH examines cooperation-related issues under Cluster 2 and their impact on eradicating impunity for serious human rights violations. The CDDH recognises that a lack of cooperation – whether between states, with international courts or mechanisms, or in the execution of judgments – can create environments where impunity flourishes. Based on the revised definitions mentioned above, the CDDH discusses how to address these challenges and how revised Guidelines and/or (an) additional non-binding instrument(s) could emphasise measures that strengthen cooperation to prevent and combat impunity effectively.

i. Inter-state Cooperation and Legal and Mutual Assistance

38. The CDDH recognises that inter-state cooperation is often essential for effectively investigating and prosecuting serious human rights violations and holding perpetrators accountable.⁵⁸ However, the CDDH identified several challenges that could hinder such cooperation. These include difficulties in gathering and sharing information and evidence across jurisdictions, such as accessing documents, witness testimonies, forensic evidence and other relevant materials. Additionally, differences in legal systems, evidentiary standards and prosecutorial practices among states complicate the admissibility and exchange of evidence.

39. To address these challenges, the CDDH emphasises the need to enhance inter-state cooperation to ensure effective accountability. This means encouraging States to intensify collaborative efforts in investigating and prosecuting serious human rights violations while considering recent developments in international cooperation practices.⁵⁹

40. The 2011 Guidelines include general provisions on the significant role of international cooperation in combating impunity, calling on states to fulfil their obligations related to mutual legal assistance, prosecution, and extradition in a manner that is consistent with human rights standards, including the principle of *non-refoulement*, and act in good faith.⁶⁰ States are also encouraged to extend their cooperation beyond existing obligations.⁶¹

41. Given the pivotal role of legal and mutual assistance in combating impunity, the 2011 Guidelines could be updated to reflect recent advancements in this field. One approach could be to incorporate specific provisions into revised Guidelines to reinforce the importance of legal cooperation mechanisms among states through mutual legal assistance. Alternatively, an additional non-binding instrument could provide more detailed guidance to states on how to

⁵⁶ See ICJ, [Canada and Netherlands v. Syrian Arab Republic](#).

⁵⁷ See ICJ, [Ukraine v. Russian Federation](#); [Qatar v. United Arab Emirates](#); [Georgia v. Russian Federation](#).

⁵⁸ See [CDDH-ELI\(2024\)10](#), paras. 3-9.

⁵⁹ See [CDDH-ELI\(2024\)05](#), Key points made by Matt Cannock.

⁶⁰ See 2011 Guidelines, XII.

⁶¹ *Idem*.

enhance inter-state cooperation. A combined approach could also be envisaged, with core principles outlined in revised Guidelines and practical recommendations elaborated in a separate instrument.

42. Revised Guidelines and/or (an) additional non-binding instrument(s) could encourage member States to align their legal frameworks with international standards and obligations to facilitate effective inter-state cooperation. This could include allocating adequate resources and providing specialised training for those involved in cooperation mechanisms.

43. Given that extradition plays a central role in combating impunity for serious human rights violations by ensuring that alleged perpetrators are brought to justice, regardless of where they are found, the CDDH considers it important to revise the 2011 Guidelines and/or adopt (an) additional non-binding instrument(s) to call for member States to ensure that extradition for certain serious human rights violations which constitute crimes under their domestic laws is made possible by law, and to remove legal and practical barriers to inter-state cooperation. This could include encouragements to sign and ratify, where appropriate, Additional Protocols to the European Convention on Extradition (ETS No. 024)⁶² and the 2023 Ljubljana-The Hague Convention on Mutual Legal Assistance⁶³ (see below).

44. Member States could also be encouraged to participate and continue their active engagement with regional networks that facilitate cooperation, such as the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network). This network promotes accountability for core international crimes through direct cooperation among practitioners from European Union (EU) member States, observer states and international organisations, including through sharing its international crimes databases.⁶⁴

45. In addition, a new and increasingly important practice observed in recent years has been the establishment and deployment of joint investigations teams (JITs), initially developed in the context of Eurojust.⁶⁵ JITs are created for a fixed period to carry out criminal investigations. They bring together law enforcement authorities, prosecutors, and judges from two or more states that formally agree to cooperate in a given investigation. JITs provide a flexible operational framework, allowing real-time exchange of information and evidence, joint operations in the field, and the sharing of technical expertise. Three weeks after Russia's aggression against Ukraine, Eurojust supported the establishment of a JIT between Ukraine, Lithuania, and Poland to investigate alleged core international crimes committed in Ukraine and to facilitate investigations and prosecutions both in the participating states and, where appropriate, before the ICC. The JIT remains active today, with additional countries joining, along with the ICC and Europol, and a memorandum of understanding with the U.S.⁶⁶ Increasingly, the deployment of JITs is recommended in the international sphere as a particularly effective tool to combat impunity.⁶⁷ Revised Guidelines and/or

⁶² The [European Convention on Extradition](#) (ETS No. 024) entered into force in 1960 – to date, it has been ratified by 51 states, including all member States of the Council of Europe (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

⁶³ [Ljubljana-The Hague Convention on Mutual Legal Assistance](#), *op. cit.*

⁶⁴ See [CDDH-ELI\(2024\)12](#), Key points made by Matevz Pezdirc. See also Eurojust, "[Core International Crimes Evidence Database](#)."

⁶⁵ See Eurojust, "[Joint investigations teams](#)." See also [CDDH-ELI\(2024\)12](#), Key points made by Matevz Pezdirc.

⁶⁶ See Eurojust, "[Joint investigation team into alleged crimes committed in Ukraine](#)."

⁶⁷ See Article 19 of the [UN Convention against Transnational Organised Crime](#), adopted on 15 November 2000; Article 41 of the [Ljubljana-The Hague Convention on Mutual Legal Assistance](#), *op. cit.* See also Human Rights Council, Working Group on Enforced or Involuntary Disappearances, "[Universal criminal jurisdiction in cases of enforced disappearance](#)," 20 August 2025, para. 114(n); Eurojust, "[Joint Investigation Teams: Practical Guide](#)," 15 December 2021; United Nations Office on Drugs and Crime (UNODC), "[UNODC and Eurojust promote Joint Investigative Teams for Central Asian countries](#)," 4-6 June 2024; UNODC, "[Joint Investigative Teams \(JITs\): An effective tool to combat human trafficking between Brazil and Paraguay](#)."

(an) additional non-binding instrument(s) could encourage member States to consider establishing, joining, and deploying JITs for international cooperation in complex and time-sensitive cross-border investigations of serious human rights violations, including by establishing, where appropriate, national entities dedicated to inter-state cooperation, ensuring effective communication and coordination.

46. The Council of Europe has made significant contributions to facilitating international cooperation in criminal matters through binding instruments such as the European Convention on Mutual Assistance in Criminal Matters (ETS No. 030). This Convention, ratified by all Council of Europe member States, enhances mutual assistance among member States by providing a comprehensive legal framework to handle requests efficiently and effectively, promoting cooperation and coordination among national judicial authorities.⁶⁸ Two additional protocols⁶⁹ supplement the convention, broadening its scope and addressing modern challenges, including the use of communication technologies and the protection of personal data. To date, neither of the two additional protocols to this Convention has been ratified by all Council of Europe member States. A third additional Protocol to the Convention was recently adopted by the Committee of Ministers, with the aim of strengthening the capacity of member and partner states to respond effectively to crime, in particular in the context of rapid political, social and technological change.⁷⁰ The third protocol was opened for signature in September 2025.

47. The 2023 Ljubljana-The Hague Convention on Mutual Legal Assistance represents a significant step forward. This convention seeks to close jurisdictional gaps, facilitate mutual legal assistance, including evidence sharing, extradition, and other forms of legal and administrative cooperation. By establishing a framework for states to facilitate mutual legal assistance and for ensuring that State Parties take the necessary measures to ensure that the relevant offences are criminalised under their domestic law, the convention is a critical tool in combating impunity for serious human rights violations.⁷¹ As the first multilateral legal instrument regulating inter-state cooperation in investigating and prosecuting genocide, crimes against humanity, war crimes and other international crimes, it offers significant potential for enhancing international cooperation.

48. Revised Guidelines and/or (an) additional non-binding instrument(s) could encourage, where appropriate, member States to sign and ratify bilateral agreements and existing European and international instruments, including the Council of Europe Additional Protocols to the European Convention on Mutual Assistance in Criminal Matters and the 2023 Ljubljana-The Hague Convention on Mutual Legal Assistance.

ii. Cooperation with International Courts and Mechanisms

49. Cooperation between member States and international courts is essential to ensuring the effectiveness of justice and the eradication of impunity. International courts rely heavily on state

⁶⁸ The [European Convention on Mutual Assistance in Criminal Matters](#) entered into force in 1962 – to date, it has been ratified by 50 states, including all member States of the Council of Europe (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

⁶⁹ The [Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters](#) (ETS No. 099) entered into force in 1982 – to date, it has been ratified by 43 states (see the [ratification chart](#)). The [Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters](#) (ETS No. 182) entered into force in 2004 – to date, it has been ratified by 43 states (see the [ratification chart](#)).

⁷⁰ See [CM\(2025\)20-add6final](#), Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, adopted by the Ministers' Deputies during its 1530th meeting on 4 June 2025.

⁷¹ See [CDDH-ELI\(2024\)12](#), Key points made by Mirjam Ekkart.

cooperation to function efficiently.⁷² Therefore, it is crucial for the Guidelines to explicitly promote state cooperation with these courts.⁷³

50. The 2011 Guidelines address issues related to international cooperation⁷⁴ and non-judicial mechanisms,⁷⁵ but they do not specifically mention cooperation with international courts. This omission fails to reflect significant developments in international law and the growing importance of such cooperation. Similarly, the Guidelines make no reference to international inquiry mechanisms.

51. The Council of Europe Commissioner for Human Rights emphasised the importance of cooperation with international justice mechanisms, including the International Criminal Tribunal for the former Yugoslavia (ICTY),⁷⁶ the International Residual Mechanism for Criminal Tribunals (IRMCT),⁷⁷ and the Kosovo Specialist Chambers,⁷⁸ and called for cooperation with the ICC by Council of Europe member States that are also States Parties to the Rome Statute.⁷⁹

52. States have an obligation to ensure the effective and efficient functioning of international courts to the statutes of which they are parties, or where the court has been established under Chapter VII of the UN Charter. Such cooperation may extend to all stages of the proceedings, namely during the investigations, during trials, and during the enforcement of sentences. The CDDH notes that international tribunals and mechanisms established under Chapter VII of the UN Charter have faced persistent challenges at the enforcement stage, including the continuing need for additional states to accept enforcement responsibilities – that is, to be willing and able to provide detention facilities where convicted persons can serve their sentences – and the risk that delays in identifying an enforcement State unnecessarily prolong adjustment periods for prisoners. Cooperation at the enforcement stage should ensure that conditions of imprisonment adhere to international standards of detention and should include identifying suitable enforcement states where convicted persons can serve their sentences in conditions conducive to rehabilitation.⁸⁰ Revised Guidelines and/or (an) additional non-binding instrument(s) could therefore explicitly promote and encourage state cooperation with international courts, including international criminal courts, throughout all stages of the proceedings.

53. Member States could be encouraged to cooperate with international courts in accordance with their international legal obligations. States that have ratified founding treaties of international courts should fulfil their cooperation commitment, while others may be invited to support their work. For member States who have ratified the founding treaty of the ICC, a specific reference to cooperation with the Office of the Prosecutor of the ICC could be incorporated into revised

⁷² See [CDDH-ELI\(2025\)01](#), Key points made by Amélie Becquart.

⁷³ See [CDDH-ELI\(2024\)10](#), paras. 17-30.

⁷⁴ See 2011 Guidelines, XII.

⁷⁵ See 2011 Guidelines, XV.

⁷⁶ See Council of Europe Commissioner for Human Rights, "[Dealing with the past for a better future - Achieving justice, peace and social cohesion in the region of the former Yugoslavia](#)," November 2023, pp. 20-28.

⁷⁷ See Council of Europe Commissioner for Human Rights, "[Report following her visit to Serbia from 13 to 17 March 2023](#)," 6 September 2023, para. 44.

⁷⁸ See Council of Europe Commissioner for Human Rights, "[Memorandum following the Commissioner's mission to Kosovo from 30 May to 3 June 2022](#)," 18 October 2022, para. 35.

⁷⁹ See Council of Europe Commissioner for Human Rights, "[International Criminal Court needs robust and long-term support](#)," 30 June 2022.

⁸⁰ See President of the International Residual Mechanism for Criminal Tribunals (IRMCT), "[Address to the United Nations Security Council](#)," 10 December 2024; "[Address to the United Nations General Assembly](#)," 16 October 2024. See also UNODC, "[Handbook on the International Transfer of Sentenced Persons](#)," 2012, pp. 2, 10-12, noting that enforcement in the executing State should enhance the possibility of social rehabilitation of the sentenced person.

Guidelines and/or (an) additional non-binding instrument(s), particularly during the investigative stages. In this context, PACE's Resolution no. 2436 (2022) is recalled.⁸¹

54. Facilitating communication between international courts and national authorities is vital to ensuring smooth cooperation. This could be achieved by appointing national liaison officers or focal points tasked with maintaining effective communication channels. Revised Guidelines and/or (an) additional non-binding instrument(s) could include a general provision encouraging member States to establish such mechanisms and/or provide further practical guidance on their roles, responsibilities, and best practices for implementation.

55. In addition, international inquiry mechanisms, established to respond to situations involving serious human rights violations, play a crucial role in ensuring accountability for both states and individuals.

56. Since 2011, there has been an increase in the number of international inquiry mechanisms established to address serious human rights violations in specific regions.⁸² One notable example is the IIIM, which was established to assist in investigating and prosecuting those responsible for the most serious international crimes committed in Syria. The IIIM collects, consolidates, preserves and analyses evidence of core international crimes while supporting national jurisdictions to facilitate fair and expeditious criminal proceedings.⁸³

57. Member States' cooperation with international inquiry mechanisms is crucial for their success. However, these mechanisms often face challenges due to inadequate cooperation from states. Revised Guidelines and/or (an) additional non-binding instrument(s) could encourage member States to cooperate with and support the work of international inquiry mechanisms, dependent on their respective mandate and the institutional basis underpinning their establishment. This approach aims to enhance accountability for human rights violations. In terms of scope, rather than attempting to provide an exhaustive list of such mechanisms, revised Guidelines and/or (an) additional non-binding instrument(s) could instead adopt the general term "international investigative bodies and other mechanisms," thus reflecting the diversity of mandates and institutional frameworks. Revised Guidelines and/or (an) additional instrument could underscore the importance of states to cooperate with these bodies to fight impunity, and provide more detailed recommendations on practical cooperation measures. These could include granting them access to relevant information and territories, ensuring the protection of victims and witnesses present in member States, and responding constructively to their findings and recommendations.

iii. Execution of Judgments of International Courts

58. The 2011 Guidelines refer to the European Court of Human Rights and the importance of executing judgments of domestic courts.⁸⁴ However, the 2022 Committee of Ministers' Guidelines on the prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms deal extensively with execution of judgments of the Court.⁸⁵

59. The CDDH recognises that the non-execution of judgments of international courts poses a significant barrier to combating impunity. It undermines the deterrent effect of such judgments,

⁸¹ PACE [Resolution 2436 \(2022\)](#), *op. cit.*, paras. 11.1 and 11.5.

⁸² See all [Human Rights Council-mandated investigative bodies](#).

⁸³ See [CDDH-ELI\(2024\)12](#), Key points made by Robert Petit. See about the [IIIM](#).

⁸⁴ See 2011 Guidelines, preamble and XI.

⁸⁵ See [Guidelines on Prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms](#), adopted at the 1444th meeting of the Ministers' Deputies on 27 September 2022, Guidelines 12-17.

hinders their potential to prevent the recurrence of human rights violations, and deprives victims of effective remedies. The execution of these judgments is essential not only for ensuring accountability but also for delivering justice and redress to individuals whose rights have been violated. Non-execution – whether of European or other international court judgments – remains a major challenge in the fight against impunity.⁸⁶

60. Despite the binding obligation under Article 46 of the Convention for member States to abide by judgments of the Court, as of late 2023, 1,088 leading judgments⁸⁷ were still pending execution.⁸⁸ By January 2024, 49% of leading judgments from the past decade were still pending implementation, with an average delay of six years and eight months.⁸⁹ It is important to note, however, that relatively few pending judgments fall within the current or potential future scope of the 2011 Guidelines.

61. Challenges to the execution of judgments of the Court arise from various factors, including the political and legal complexity of certain cases, and the systemic or structural issues identified in the judgments.⁹⁰ Additionally, non-cooperation by some member States and a lack of resources or technical expertise may further impede the implementation process.⁹¹

62. In 2022, the Committee of Ministers adopted Guidelines to member States on the prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms,⁹² reiterating the importance of executing judgments. During the Fourth Summit in May 2023, the Heads of State and Government of the Council of Europe reaffirmed the “unconditional obligation to abide by the final judgments of the European Court of Human Rights in any case to which [they] are parties”⁹³ and “the fundamental importance of the execution of the Court’s judgments and the effective supervision of that process to ensure the long-term sustainability, integrity and credibility of the Convention system.”⁹⁴ Recent initiatives, such as meetings between national coordinators and the Department for the Execution of Judgments and the creation of the Execution Coordinators’ Network,⁹⁵ aim to enhance cooperation and build national capacities to address execution challenges.

63. It is essential to reaffirm that states parties to international judicial bodies are under an obligation to implement their judgments,⁹⁶ in revised Guidelines and/or (an) additional non-binding instrument(s).

⁸⁶ See [CDDH-ELI\(2024\)10](#), paras. 10-16.

⁸⁷ According to the [Glossary of the Department for the execution of judgments of the European Court of Human Rights](#), a “leading case” is a “Case which has been identified as disclosing a problem, in law and/or practice, at national level, often requiring the adoption by the respondent State of new or additional general measures to prevent recurrence of similar violations. [...] A leading case may also reveal structural/systemic problems, identified by the Court in its judgment or by the Committee of Ministers in the course of its supervision of execution, requiring the adoption by the respondent State of new general measures to prevent recurrence of similar violations.”

⁸⁸ See [Supervision of the execution of judgments of the European Court of Human Rights 2023 – 17th Annual Report of the Committee of Ministers](#), p. 117.

⁸⁹ See European Implementation Network Statistics, [Country Map – European Implementation Network](#).

⁹⁰ See [Supervision of the execution of judgments of the European Court of Human Rights 2023 – 17th Annual Report of the Committee of Ministers](#), p. 59. See also [CDDH-ELI\(2024\)12](#), Key points made by Frederic Dolt.

⁹¹ [Reykjavík Declaration, “United around our values”](#), *op. cit.*, Appendix IV “Recommitting to the Convention system as the cornerstone of the Council of Europe’s protection of human rights”, pp. 17-19. See also [CDDH-ELI\(2024\)12](#), Key points made by Frederic Dolt.

⁹² [Guidelines on Prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms](#), *op. cit.*

⁹³ [Reykjavík Declaration, “United around our values.”](#) *op. cit.*, p. 4.

⁹⁴ *Ibid.*, p. 18.

⁹⁵ For further information, see [Meeting of Co-ordinators of the execution of judgments of the European Court of Human Rights - 24 June 2024 - Implementation of Human Rights, Justice and Legal Co-Operation Standards \(coe.int\)](#).

⁹⁶ The binding nature of international court’s judgments is grounded in the respective founding treaties or statutes of these judicial bodies. Article 94 of the [UN Charter](#) obliges member States to comply with decisions of the ICJ. The binding

64. The CDDH highlights that the 2011 Guidelines focus on the implementation of domestic court judgments,⁹⁷ and recommends extending their scope to include judgments rendered by the Court and judgments and binding decisions rendered by international mechanisms.⁹⁸

65. Strengthening state capacity to align laws and policies with international court rulings is crucial for ensuring effective compliance. Comprehensive reforms to domestic legislation and policy may be necessary to align domestic practices with international court judgments.⁹⁹ This has been addressed in several Committee of Ministers' instruments regarding the execution of the Court's judgments.¹⁰⁰ Revised Guidelines and/or (an) additional non-binding instrument(s) could provide recommendations on how to strengthen state capacity to align laws and policies with international judgments, including emphasising the need for states to allocate sufficient resources for implementing judgments promptly and promoting domestic execution arrangements through reporting mechanisms and capacity-building programs, as essential components for fostering implementation of courts judgments.

66. Independent oversight mechanisms, such as National Human Rights Institutions (NHRIs), Ombudsperson institutions, and civil society organisations play a critical role in monitoring and advocating for the implementation of international courts judgments, including those of the Court.¹⁰¹ Member States could be encouraged to engage proactively with these bodies in monitoring compliance and enacting necessary legal and policy reforms. Revised Guidelines and/or (an) additional non-binding instrument(s) could acknowledge and promote this engagement.

3. Cluster 3: Issues related to Criminal Law

67. The CDDH examined several criminal law issues while examining the need for and feasibility to revise the 2011 Guidelines and/or adopt (an) additional non-binding instrument(s) to complement the Guidelines on the eradication of impunity for serious human rights violations.

i. Universal Criminal Jurisdiction

nature of judgments from the ICTY the international Criminal Tribunal for Rwanda (ICTR), and the IRMCT derives from their establishment under Chapter VII of the UN Charter, which gives the UN Security Council authority to take binding measures to maintain or restore international peace and security. Article 59 of the [Rome Statute](#) of the ICC outlines the binding nature of the Court's decisions on states parties.

⁹⁷ See 2011 Guidelines, XI.

⁹⁸ See [A/HRC/57/27](#), Study of the Office of the OHCHR, 11 September 2024, para. 55(c).

⁹⁹ D. Anagnostou and A. Mungiu-Pippidi, "Domestic Implementation of Human Rights Judgments in Europe: Legal Infrastructure and Government Effectiveness Matter," *European Journal of International Law*, Volume 25, Issue 1, February 2014, pp. 220-221.

¹⁰⁰ See [Recommendation CM/Rec\(2008\)2](#) of the Committee of Ministers to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, adopted at the 1017th meeting of the Ministers' Deputies on 6 February 2008. See also [Brussels Declaration](#), "High-Level Conference on the "Implementation of the European Convention on Human Rights, our shared responsibility," 27 March 2015; [Recommendation CM/Rec\(2021\)4](#) of the Committee of Ministers to member States on the publication and dissemination of the European Convention on Human Rights, the case-law of the European Court of Human Rights and other relevant texts, adopted at the 1412th meeting of the Ministers' Deputies on 22 September 2021.

¹⁰¹ Article 36(2) and Article 46(2) of the Convention. See PACE [Resolution 2494 \(2023\)](#), "Implementation of judgments of the European Court of Human Rights," adopted on 26 April 2023, para. 7.6; See also [CDDH-ELI\(2024\)12](#), Key points made by Frederic Dolt; [Recommendation CM/Rec\(2021\)1](#) of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions, adopted at the 1400th meeting of the Ministers' Deputies on 31 March 2021, preamble; [Guidelines of the Committee of Ministers on the prevention and remedying of violations of the Convention for the protection of human rights and fundamental freedoms](#), *op. cit.*, Guideline 7 – Strengthening the role of NHRIs, civil society and other key bodies, 7.1 and 7.2; [Recommendation CM/Rec\(2021\)4](#), *op. cit.*, point 1.4.

68. Universal criminal jurisdiction is a well-established principle of international law¹⁰² that serves as a complementary mechanism in the fight against impunity. It allows states to prosecute individuals for certain serious crimes, regardless of where they were committed or the nationality of the perpetrator or victims. By ensuring that borders are not always an obstacle to justice, universal criminal jurisdiction reinforces global accountability efforts.

69. There are no universally recognised rules under customary international law regarding universal criminal jurisdiction,¹⁰³ and there is no international consensus on its precise definition and scope.¹⁰⁴ Several international treaties and instruments provide for the prosecution of specific crimes based on this principle.¹⁰⁵ State practice shows that universal criminal jurisdiction is generally exercised over the most serious international crimes, such as war crimes, genocide, crimes against humanity, slavery, torture, terrorism, and piracy.¹⁰⁶

70. Universal jurisdiction has been incorporated into the domestic legal frameworks of several Council of Europe member States. The CDDH recognises that different forms of universal criminal jurisdiction exist across jurisdictions. Some states provide for absolute universal criminal jurisdiction, while others apply a conditional form, imposing limitations, such as requiring the perpetrator's presence on national territory before prosecution can proceed.

71. The 2011 Guidelines do not explicitly refer to universal criminal jurisdiction. Instead, they focus on states' obligations to investigate and prosecute, where warranted, serious crimes under the Convention, including Article 2 (right to life), Article 3 (the prohibition of torture and inhumane or degrading treatment or punishment), Article 4 (the prohibition of slavery and forced labour), Article 5 (the right to liberty and to security of person), and Article 8 (the right to respect for private and family life).

72. In recent years, states – including some Council of Europe member States – have increasingly exercised universal criminal jurisdiction to prosecute certain serious human rights

¹⁰² See the work of the Sixth Committee (Legal) of the General Assembly of the UN in relation to [the scope and application of the principle of universal jurisdiction](#), 79th session, 2024. The Court has recognised that universal jurisdiction “is relatively widely accepted by the States with regard to criminal matters”. See *Nait-Liman v. Switzerland* [GC], appl. no. 51357/07, 15 March 2018, para. 178. See also, with regard to the crime of genocide, *Jorgic v. Germany*, appl. no. 74613/01, 12 July 2007, paras. 68–69. See also, with regard to enforced disappearances, Human Rights Council, Working Group on Enforced or Involuntary Disappearances, “[Universal criminal jurisdiction in cases of enforced disappearance](#),” 20 August 2025.

¹⁰³ See Sixth Committee (Legal) of the UN General Assembly in relation to [the scope and application of the principle of universal jurisdiction](#), *op. cit.*

¹⁰⁴ See Committee of Ministers [Reply to Recommendation 1953 \(2011\)](#) of the Parliamentary Assembly of the Council of Europe, “The obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes”, adopted at the 1145th meeting of the Ministers' Deputies on 13 June 2012, para. 6.

¹⁰⁵ See Article 49 of [Geneva Convention \(I\)](#) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949; Article 50 of the [Geneva Convention \(II\)](#) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, 12 August 1949; Article 129 of the [Geneva Convention \(III\)](#) relative to the Treatment of Prisoners of War, 12 August 1949; and Article 146 of the [Geneva Convention \(IV\)](#) relative to the Protection of Civilians Persons in Time of War, 12 August 1949; Articles I and VI of the [Convention on the Prevention and Punishment of the Crime of Genocide](#), adopted on 9 December 1948; Article V of the [International Convention on the Suppression and Punishment of the Crime of Apartheid](#), adopted on 30 November 1973; Article 5(2) of the [Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment](#), adopted on 10 December 1984; Article 6(4) and (5) of the [Convention for the suppression of unlawful acts against the safety of maritime navigation](#), adopted on 10 March 1988; Article 9 of the [International Convention for the Protection of All Persons from Enforced Disappearance](#), adopted on 20 December 2006; Article 8(3) of the [Convention de Ljubljana-The Hague on Mutual Legal Assistance](#), *op. cit.*; See also Article 7 of the [Draft articles on Prevention and Punishment of Crimes Against Humanity](#), 2019. See also *Jorgic v. Germany*, *op. cit.*, para. 69.

¹⁰⁶ See [A/78/130](#), Report of the Secretary-General on The scope and application of the principle of universal jurisdiction, 6 July 2023, Table 1 - List of crimes mentioned in the comments by Governments concerning which universal jurisdiction (including other bases of jurisdiction) is established by their codes, pp. 13-16.

violations such as genocide, war crimes, crimes against humanity, terrorism and torture, when committed outside their territory.¹⁰⁷ Examples include: Austria's conviction of a Syrian national for terrorism-related crimes in Syria;¹⁰⁸ Hungary's conviction of a Syrian national for crimes against humanity against the civilian population in Syria;¹⁰⁹ Germany's prosecution of members of Syrian intelligence services and Da'esh, convicting them for crimes against humanity, war crimes and genocide against the Yazidi community in Iraq;¹¹⁰ France's trials of individuals involved in the 1994 Rwanda genocide¹¹¹ and recent investigation of alleged war crimes, enforced disappearances and torture committed in Syria;¹¹² Switzerland's conviction of a Liberian rebel commander for rape, murder and cannibalism; and the Netherlands' trials of former members of Syrian jihadist groups and government militias for war crimes committed in Syria.¹¹³

73. The UN High Commissioner for Human Rights called on states to establish universal jurisdiction in their domestic legal frameworks,¹¹⁴ and to apply this principle in order to strengthen global efforts against impunity.¹¹⁵ The Council of Europe Commissioner for Human Rights made similar calls in relation to the Russian Federation's war of aggression against Ukraine¹¹⁶ and enforced disappearances.¹¹⁷

74. The Russian Federation's aggression against Ukraine has further underscored the need to hold perpetrators accountable for serious violations of international law. In 2022, the Council of the EU asked EU member States to allow the exercise of universal jurisdiction or other forms of jurisdiction over core international crimes.¹¹⁸ The Committee of Ministers of the Council of Europe has emphasised the necessity of mobilising all instruments to ensure accountability and urged member States to engage in developing a comprehensive accountability system in accordance with international law.¹¹⁹

¹⁰⁷ See [CDDH-ELI\(2025\)01](#), Key points made by Amélie Becquart. See also TRIAL International, "[Universal Jurisdiction Annual Review 2024](#)," p. 11, which highlights a 33% increase of the total number of cases in 2023 compared to 2022.

¹⁰⁸ See Judgment of the Regional Court, Eisenstadt, AZ 50 Hv 15/21w, 23 March 2022.

¹⁰⁹ See Budapest Metropolitan Court, Judgment No. 31.B.1091/2019/184, 3 December 2020.

¹¹⁰ As recent examples, Germany has used universal jurisdiction under its Code of Crimes Against International Law which allows prosecution for genocide, war crimes, and crimes against humanity regardless of where they occurred. See the Al-Khatib trial (2022), in which a former Syrian intelligence officer was convicted in 2022 by a German court for crimes against humanity, including torture, committed in Syria.

¹¹¹ See the 2022 conviction of Laurent Bucyibaruta for complicity in genocide and crimes against humanity and the recent case brought against Eugene Rwamucyo accused of genocide, complicity in genocide, crimes against humanity, complicity in crimes against humanity and conspiring to prepare those crimes.

¹¹² See French Cour de Cassation, "[Universal jurisdiction of French justice for crimes committed in Syria](#)," 12 May 2023.

¹¹³ For more examples, see [Universal Jurisdiction Annual Review 2024](#), *op. cit.*

¹¹⁴ See for example, [A/HRC/48/60](#), Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence on "Accountability: Prosecuting and punishing gross violations of human rights and serious violations of international humanitarian law in the context of transitional justice", 9 July 2021, para. 97(u).

¹¹⁵ See as a recent example, "[End of the year press conference by UN High Commissioner for Human Rights Volkr Türk](#)," 9 December 2024. See also [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principle 5; [UN Updated Set of Principles](#), *op. cit.*, Principle 21.

¹¹⁶ See Council of Europe Commissioner for Human Rights, "[Memorandum on Human Rights Elements for Peace in Ukraine](#)," 8 July 2025, para. 15, in which the Commissioner "commends the use of international legal principle of universal jurisdiction that allows domestic courts of third states to prosecute international crimes regardless of where these were committed or the nationality of the victim or perpetrator" and "encourages Council of Europe member states to make use of their laws allowing for universal jurisdiction to ensure that perpetrators of international crimes do not enjoy impunity, notably when present on their territories." See also "[Memorandum on the Human Rights Consequences of the War in Ukraine](#)," 8 July 2022, para. 63.

¹¹⁷ See Council of Europe Commissioner for Human Rights, "[Report on Missing Persons and Victims of Enforced Disappearance in Europe](#)," 30 June and 1 July 2016, para. 41; See also Issue Paper, "[Missing Persons and Victims of Enforced Disappearance in Europe](#)," March 2016, p. 53.

¹¹⁸ See EU press release, "[Council adopts conclusions on the fight against impunity in Russia's war of aggression against Ukraine](#)," 9 December 2022.

¹¹⁹ See Committee of Ministers' Decisions, "Consequences of the aggression of the Russian Federation against Ukraine," [CM/Del/Dec\(2024\)1490/2.3](#) adopted at the 1490th meeting of the Ministers' Deputies on 21 and 23 February 2024, para.

75. In order to facilitate the exercise of universal criminal jurisdiction, the creation of specialised units for investigating and prosecuting international crimes is considered essential for effective and targeted investigations of crimes committed abroad.¹²⁰ Several Council of Europe member States have established such units for investigating and prosecuting international crimes committed outside their territories.¹²¹ However, these units require adequate resources and capacity to function properly.¹²² A key challenge in prosecuting cases under universal jurisdiction is the limited resources allocated to such investigations, as states often prioritise domestic crimes over international ones.¹²³ In the context of the Russia's aggression against Ukraine, the Council of the EU called on EU member States to provide adequate support for the creation and functioning of specialised units dedicated to the investigation and prosecution of core international crimes at national level.¹²⁴ Integrating international crimes into broader criminal policy frameworks could help address this challenge.¹²⁵

76. Universal criminal jurisdiction has become a crucial tool in closing impunity gaps. In light of recent developments in member States and in international law as well as increasing calls for action,¹²⁶ strengthening the application of universal criminal jurisdiction is vital for ensuring accountability. The CDDH considers it relevant to include a reference to universal criminal jurisdiction in revised Guidelines and/or (an) additional non-binding instrument(s). In particular, Council of Europe member States could be encouraged to incorporate universal criminal jurisdiction into their domestic legal frameworks (if they have not already done so). Revised Guidelines and/or (an) additional non-binding instrument(s) could also make further practical recommendations for member States to consider providing adequate means to enabling relevant domestic authorities to exercise universal criminal jurisdiction, for example by allocating adequate resources and capacity to investigate and prosecute crimes under universal criminal jurisdiction and establishing functioning specialised units for investigations and prosecutions.

ii. The Principle of *aut dedere aut iudicare* (Extradite or Prosecute)

77. PACE has long advocated for Council of Europe member States to incorporate the principle of *aut dedere aut iudicare* (extradite or prosecute) into their domestic criminal laws. This principle ensures that states can prosecute perpetrators of certain serious human rights violations if their extradition to the state where the crimes were committed is not possible.¹²⁷ This principle is also contained in the UN Updated Set of Principles for the protection and promotion of human rights through action to combat impunity, which calls on states to implement their legal obligations to

4; [CM/Del/Dec\(2023\)1457bis/2.3](#) adopted at the 1457bis meeting of the Ministers' Deputies on 24 February 2023, para. 8; [CM/Del/Dec\(2022\)1442/2.3](#) adopted at the 1442nd meeting on 14-15 September 2022, para. 5.

¹²⁰ See [CDDH-ELI\(2025\)01](#), Discussion. See also Working Group on Enforced or Involuntary Disappearances, "[Universal criminal jurisdiction in cases of enforced disappearance](#)," *op. cit.*, paras. 63-70; [The Prague Statement](#) on Universal Criminal Jurisdiction, "Universal Jurisdiction: Accelerating Progress on Justice and Accountability for the War in Ukraine and Beyond," 8 October 2024, p. 2.

¹²¹ For examples, in 2013, France established the Central Office to fight crimes against humanity and hate crimes. Germany created specialised units within the Federal Criminal Police Office and the Office of the Federal Public Prosecutor General to investigate international crimes. The Netherlands have created special teams within its national police and prosecution services. See more information on [A/76/203](#), Report of the Secretary-General on the scope and application of the principle of universal jurisdiction, 21 July 2021, paras. 32 and 36.

¹²² See [The Prague Statement](#), *op. cit.*, p. 3.

¹²³ See [CDDH-ELI\(2025\)01](#), Discussion.

¹²⁴ See "[Council adopts conclusions on the fight against impunity in Russia's war of aggression against Ukraine](#)," *op. cit.*

¹²⁵ See [CDDH-ELI\(2025\)01](#), Discussion.

¹²⁶ See [The Prague Statement](#), *op. cit.*, pp. 2-3.

¹²⁷ PACE [Recommendation 1427 \(1999\)](#), "Respect for international humanitarian law in Europe," adopted on 23 September 1999, para. 8.2; [Resolution 1785 \(2011\)](#), "The obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes", adopted on 26 January 2011, paras. 9 and 10.6.

institute criminal proceedings against persons suspected of serious crimes under international law if they do not extradite them.¹²⁸ PACE has also encouraged member States to expedite extradition requests and process them in good faith, particularly for war crimes.¹²⁹ Additionally, it has called for lifting bans on the extradition of nationals, which it considers a “serious obstacle to the course of justice.”¹³⁰

78. In reply to the PACE Recommendation, the Committee of Ministers has accepted that reinforcing the principle of *aut dedere aut judicare* could serve as an effective means to prosecute war crimes, especially when universal jurisdiction cannot be applied.¹³¹

79. The Council of Europe Commissioner for Human Rights has recommended that all states introduce an exception to the rule of non-extradition of nationals for the most serious offences under international law (war crimes, crimes against humanity and genocide). The Commissioner stressed that such a measure would “send the signal that these crimes are so abhorrent that no safe haven can be provided to those who commit them.”¹³²

80. The ILC has noted that the obligation to extradite or prosecute is widely recognised by states as a crucial tool in fighting impunity. It applies to a broad range of crimes of serious concern to the international community,¹³³ and several international treaties already reflect this obligation.¹³⁴ The Draft articles on prevention and punishment of crimes against humanity provide that states parties prosecute an alleged offender accused of crimes against humanity if they do not extradite him or her.¹³⁵

81. The Convention against Torture provides that a State Party has an obligation to prosecute alleged perpetrators of acts of torture if it does not extradite them.¹³⁶ In this regard, the ICJ found that Senegal had engaged its international responsibility by failing to comply with its obligations under the Convention against Torture to extradite or prosecute the former President of Chad, who was residing in Senegal.¹³⁷

82. The 1957 European Convention on Extradition, ratified by all Council of Europe member States, enshrines the obligation to extradite individuals wanted for prosecution or sentencing in another Contracting Party – subject to specific conditions and provisions set out in the convention – and the principle “extradite or prosecute”.¹³⁸ Not all Council of Europe member States have signed and ratified the four Additional Protocols to the European Convention on Extradition (ETS

¹²⁸ See [UN Updated Set of Principles](#), *op. cit.*, Principle 21.

¹²⁹ PACE [Resolution 1785 \(2011\)](#), *op. cit.*, paras. 10.4-10.6.

¹³⁰ *Ibid.*, paras. 6 and 11.4.

¹³¹ Committee of Ministers [Reply to PACE Recommendation 1953 \(2011\)](#), *op. cit.*, para. 7.

¹³² “[Dealing with the past for a better future](#),” *op. cit.*, p. 41. The Commissioner also referred to the obligation to “extradite or prosecute” in previous reports, such as “[Report following her visit to Serbia from 13 to 17 March 2023](#),” *op. cit.*, para. 18.

¹³³ ILC, [Final report](#) “The obligation to extradite or prosecute (*aut dedere aut judicare*),” 2014, p. 2.

¹³⁴ *Ibid.*, pp. 4.-7, citing, *inter alia*, the four Geneva Conventions of 1949, *op. cit.*, the [1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft](#), signed on 16 December 1970, and the [Convention against Torture](#), *op. cit.*

¹³⁵ See ILC, [Draft articles on Prevention and Punishment of Crimes Against Humanity](#), *op. cit.*, Article 10.

¹³⁶ Articles 5(2) and 7(1) of the [Convention against Torture](#), *op. cit.*

¹³⁷ ICJ, Questions relating to the Obligation to Prosecute or Extradite (*Belgium v. Senegal*), judgment of 20 July 2012, para. 122.

¹³⁸ Article 6 (2) of the [European Convention on Extradition](#), *op. cit.*; [Reply to PACE Recommendation 1953 \(2011\)](#), *op. cit.*, para. 5.

No. 086,¹³⁹ ETS No. 098,¹⁴⁰ CETS No. 209,¹⁴¹ and CETS No. 212¹⁴²), despite calls from the Committee of Ministers to do so.¹⁴³ Article 1 of the Additional Protocol to the European Convention on Extradition provides that war crimes and crimes against humanity constitute extraditable offences.¹⁴⁴

83. The 2023 Ljubljana-The Hague Convention on Mutual Legal Assistance includes provisions on the application of the *aut dedere aut judicare* principle. Specifically, it provides that, in cases involving international crimes as defined in the convention, a State Party shall submit the case to its competent authorities for prosecution if it does not extradite or surrender the person to another state or a competent international criminal court or tribunal.¹⁴⁵

84. The 2011 Guidelines do not refer to the principle of *aut dedere aut judicare*, despite its growing recognition in international law as a key tool in combating impunity for certain serious human rights violations that constitute crimes under domestic criminal laws. Revised Guidelines and/or (an) additional non-binding instrument(s) could expressly refer to an obligation to extradite or prosecute. In particular, they could encourage states to incorporate this principle into domestic criminal legislation and consider lifting legal obstacles – such as the non-extradition of nationals – for certain serious human rights violations that constitute crimes under international criminal law. In addition, revised Guidelines and/or (an) additional non-binding instrument(s) could encourage, where appropriate, states to sign and ratify existing European and international instruments, including the Additional Protocols to the European Convention on Extradition and the Ljubljana-The Hague Convention on Mutual Legal Assistance.

iii. Amnesties, Pardons and Time-bars

85. Amnesties, pardons, and time-bars can be significant obstacles to accountability for serious human rights violations. By preventing the investigation and prosecution of such crimes or by pardoning or granting release to an individual convicted of serious human rights violations, they contribute to impunity.

86. The 2011 Guidelines emphasise that legitimate restrictions and limitations on investigations and prosecutions should be kept to the minimum necessary to achieve their intended aim.¹⁴⁶ The reference texts of the 2011 Guidelines highlights the Court case-law, which affirms that when an individual is charged with torture or ill-treatment, neither criminal proceedings nor sentencing should be time-barred, and amnesties or pardons should not be permitted.¹⁴⁷

¹³⁹ The [Additional Protocol](#) to the European Convention on Extradition (ETS No. 086) entered into force in 1979 – to date, it has been ratified by 41 states, including 37 member States of the Council of Europe (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

¹⁴⁰ The [Second Additional Protocol](#) to the European Convention on Extradition (ETS No. 098) entered into force in 1983 – to date, it has been ratified by 45 states, including 41 member States of the Council of Europe (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

¹⁴¹ The [Third Additional Protocol](#) to the European Convention on Extradition (CETS No. 209) entered into force in 2012 – to date, it has been ratified by 23 states, all of which are member States of the Council of Europe (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

¹⁴² The [Fourth Additional Protocol](#) to the European Convention on Extradition (ETS No. 212) entered into force in 2014 – to date, it has been ratified by 14 states, 13 of which are member States of the Council of Europe (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

¹⁴³ [Reply to PACE Recommendation 1953 \(2011\)](#), *op. cit.*, para. 2.

¹⁴⁴ *Ibid.*, para. 3.

¹⁴⁵ See Article 14 of the [Ljubljana-The Hague Convention](#) on Mutual Legal Assistance, *op. cit.*

¹⁴⁶ See 2011 Guidelines, XIV.

¹⁴⁷ See Reference texts of the 2011 Guidelines, referring to [Abdülşamet Yaman v. Turkey](#), appl. no. 32446/96, 2 November 2004, para. 55. See also the cases of [Yeter v. Turkey](#), appl. no. 33750/03, 13 January 2009, para. 70; [Ould Dah v. France](#), appl. no. 13113/03, 17 March 2009, p. 17.

87. International law constrains the use of amnesties, pardons, and statutory limitations for serious offences, even in the context of peace agreements or national reconciliation efforts.¹⁴⁸ In 2021, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence recommended that states “refrain from having recourse to legal, judicial or de facto obstacles to accountability, such as [...] total or partial amnesties, pardons, the application of statutory limitations [...] since they run counter to international law.”¹⁴⁹ The UN Updated Set of Principles on impunity stipulates that, even in a context of peace agreement, perpetrators of serious crimes under international law may not benefit from amnesties, unless the state has fulfilled its obligations to investigate, prosecute, and provide reparations, or unless the individual has been prosecuted in another competent jurisdiction (whether international, internationalised or national).¹⁵⁰ The UN Updated Set of Principles also specify that amnesties must not interfere with victims’ right to reparation.¹⁵¹ In addition, pardons based on humanitarian grounds could only be granted in cases of terminal illness of imminent resolution.¹⁵²

88. The Council of Europe Commissioners for Human Rights have a long-standing position condemning amnesties for serious human rights violations and international crimes,¹⁵³ including in the context of Ukraine.¹⁵⁴

89. Amnesties for grave breaches of human rights are generally incompatible with states’ obligations under international conventions that provide for a duty to prosecute crimes defined therein,¹⁵⁵ such as Article 7 of the International Covenant for Civil and Political Rights (ICCPR).¹⁵⁶ The UN Committee Against Torture (CAT) has repeatedly found that amnesties and pardons for torture are incompatible with states’ obligations.¹⁵⁷ The UN Human Rights Committee has also urged states to prohibit amnesties for serious human rights violations, including international crimes.¹⁵⁸

90. Statutes of limitations also create serious barriers to justice, as time restrictions on the prosecution of serious human rights violations allow perpetrators to evade accountability. Recognising this risk, international law and human rights standards emphasise that the most

¹⁴⁸ [Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#), *op. cit.*, para. 26.

¹⁴⁹ *Ibid.*, para. 97(b).

¹⁵⁰ [UN Updated Set of Principles](#), *op. cit.*, Principle 24(a).

¹⁵¹ *Ibid.*, Principle 24(b).

¹⁵² [Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#), *op. cit.*, para. 97(f).

¹⁵³ See Council of Europe Commissioner for Human Rights, Issue Paper on “[Post-war Justice and durable peace in the former Yugoslavia](#),” 2012, p. 15; “[Missing Persons and Victims of Enforced Disappearance in Europe](#),” *op. cit.*, p. 53; “[Dealing with the past for a better future](#),” *op. cit.*, para. 39.

¹⁵⁴ See “[Memorandum on Human Rights Elements for Peace in Ukraine](#),” *op. cit.*, para. 14; See also Council of Europe Commissioner for Human Rights, “Report following his Visit to Ukraine from 21 to 25 March 2016,” 11 July 2016, para. 31; “[Report following his Mission in Kyiv, Moscow and Crimea](#),” 27 October 2014, paras. 37-38.

¹⁵⁵ See [Marguš v. Croatia](#) [GC], appl. no. 4455/10, 27 May 2014, paras. 132-133.

¹⁵⁶ For violations of Article 7 of the International Covenant for Civil and Political Rights (ICCPR), see Human Rights Committee, [CCPR General Comment No. 20: Article 7](#) (Prohibition of Torture or Other Cruel, Inhuman, or Degrading Treatment or Punishment), para. 15.

¹⁵⁷ CAT, [A/55/44](#), Concluding Observations on Azerbaijan, 1999, para. 69(c). See also [A/51/44](#), Concluding Observations on Senegal, 1996, para. 117; [CAT/C/CR/32/5](#), Concluding Observations on Chile, 2004, para. 7(b); [CAT/CO/34/BHR](#), Concluding Observations on Bahrain, 2005, para. 6(g). For pardons, see [CAT/C/34/D/212/2002](#), *Kepa Urri Guridi v. Spain*, Communication No. 212/2002, (2005), para. 6.7.

¹⁵⁸ See for examples: [CCPR/C/NIC/CO/4](#), Concluding observations on the fourth periodic report of Nicaragua, 15 November 2022, para. 12(a); [CCPR/C/SEN/CO/5](#), Concluding observations on the fifth periodic report of Senegal, 11 December 2019, para. 9, calling for Senegal to abolish all amnesties for international crimes and provide reparation to the victims and their families; [CCPR/C/MRT/CO/2](#), Concluding observations on the second periodic report of Mauritania, 23 August 2019, para. 10.

serious crimes should not be subject to statutory limitations. In addition to the impact on prosecutions, the Council of Europe Commissioner for Human Rights raised concern about the impact of statutes of limitations on access to reparations for victims.¹⁵⁹ The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence affirmed that statutory limitations should not apply to serious human rights violations.¹⁶⁰ The Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity establishes that such crimes remain prosecutable at all times.¹⁶¹ The CAT has interpreted Articles 1 and 4 of the UN Convention against Torture as obligating states to ensure that acts of torture cannot be time-barred.¹⁶² The Rome Statute also explicitly states that the crimes within its jurisdiction are not subject to any statute of limitations.¹⁶³ Furthermore, the UN Updated Set of Principles on impunity stipulates that prescriptions in criminal cases “shall not apply to crimes under international law that are by their nature imprescriptible.”¹⁶⁴

91. The European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (ETS No. 082) provides that each Contracting State undertakes to adopt the necessary measures to secure that statutory limitation does not apply to the prosecution of crimes against humanity, war crimes and any other violation of a rule or custom of international law or to the enforcement of the sentences imposed for such offences.¹⁶⁵ To date, the convention has only been ratified by eight Council of Europe member States. Revised Guidelines and/or (an) additional non-binding instrument(s) could encourage the remaining member States to sign and ratify this convention.

92. The Court has consistently ruled that amnesties and statutes of limitations must not obstruct accountability for grave human rights violations. In *Mocanu and Others v. Romania*, the Grand Chamber held that for acts of torture or ill-treatment, statutes of limitations should not apply, and amnesties and pardons should not be tolerated.¹⁶⁶ In *Kononov v. Latvia* and *Touvier v. France*, the Court further affirmed that war crimes and crimes against humanity are not subject to statutory limitations.¹⁶⁷

93. In 2022, the Court issued an Advisory Opinion on the applicability of statutes of limitations to offences amounting to torture, reaffirming that the prohibition against torture is a peremptory norm under international law. The Court held that “criminal proceedings ought not to be discontinued on account of a limitation period, and also that amnesties and pardons should not be tolerated in such cases.”¹⁶⁸ The Court also noted significant state practice among Council of Europe

¹⁵⁹ See “[Dealing with the past for a better future](#),” *op. cit.*, pp. 45-46.

¹⁶⁰ [Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence](#), *op. cit.*, para. 34.

¹⁶¹ Article 1 of the [Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity](#), adopted on 26 November 1968.

¹⁶² For instance, see [CAT/C/DNK/CO/5](#), Conclusions and recommendations of the CAT, 16 July 2007, para. 11.

¹⁶³ Article 29 of the [Rome Statute](#) of the ICC.

¹⁶⁴ [UN Updated Set of Principles](#), *op. cit.*, Principle 23.

¹⁶⁵ Article 1 of the [European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes](#) (ETS No. 082). The Convention entered into force in 2003 and has been ratified by eight Council of Europe member States (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

¹⁶⁶ *Mocanu and Others v. Romania* [GC], appl. nos. 10865/09, 45886/07 and 32431/08, 17 September 2014, para. 326.

¹⁶⁷ *Kononov v. Latvia* [GC], appl. no. 36376/04, 17 May 2010, para. 233; *Touvier v. France*, appl. no. 29420/95, 13 January 1997, para. 7.

¹⁶⁸ [Advisory Opinion on the applicability of statutes of limitation to prosecution, conviction and punishment in respect of an offence constituting, in substance, an act of torture](#), Requested by the Armenian Court of Cassation, Request no. P16-2021-001, 26 April 2022, paras. 59-64. On the prohibition of torture amounting to a *jus cogens* norm, see also: ICJ, Questions Relating to the Obligation to Prosecute or Extradite (*Belgium v. Senegal*), Judgment of 20 July 2012, para. 99.

member States in abrogating or suspending statutes of limitations for acts of torture, ensuring accountability for state officials.¹⁶⁹

94. The Committee of Ministers has stressed that “when a State agent has been charged with crimes involving ill-treatment, it is of the utmost importance that criminal proceedings and sentencing are not time-barred. In order to maintain public trust in the justice system, measures such as the granting of an amnesty or pardon should not be envisaged or accepted without convincing reasons.”¹⁷⁰

95. The European Commission for Democracy through Law (Venice Commission) has similarly reaffirmed that “amnesties have the effect of retrospectively nullifying the criminality of certain acts and can therefore deprive criminal provisions as laid down in acts of parliament of any practical effect”¹⁷¹ and concluded that amnesties are impermissible in relation to serious international crimes and serious human rights violations.¹⁷²

96. Referring to international conventions, judgments of several international courts and resolutions, recommendations and comments from various international bodies, in 2014, the Court had recognised that “[a] growing tendency in international law is to see such amnesties as unacceptable because they are incompatible with the unanimously recognised obligation of States to prosecute and punish grave breaches of fundamental human rights.”¹⁷³ This tendency has been recognised by the ILC, which in 2017 recognised that “there is a ‘crystallising international norm’ or ‘emerging consensus’ prohibiting amnesties in relation to serious international crimes, particularly in relation to blanket or general amnesties, based on a duty to investigate and prosecute those crimes and punish their perpetrators.”¹⁷⁴

97. In the 2023 Reykjavík Declaration, the Heads of State and of Government of the Council of Europe declared that no statutes of limitation apply to genocide, crimes against humanity, and war crimes, including conflict-related sexual violence and rape.¹⁷⁵

98. In light of these developments, the 2011 Guidelines could be strengthened to explicitly state that amnesties, pardons and statutes of limitations should not apply to certain crimes constituting serious human rights violations, including international crimes. Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States align their national laws with international standards by eliminating limitation periods for such crimes. Additionally, revised Guidelines and/or (an) additional non-binding instrument(s) could stipulate that amnesties, pardons and statutes of limitations must not hinder victims’ access to remedies and reparations.

99. In addition, statutes of limitations should not hinder the execution of the European Court of Human Rights’ judgments in cases involving serious human rights violations.¹⁷⁶ In 2022, the Grand

¹⁶⁹ [Advisory Opinion on the applicability of statutes of limitation to prosecution, conviction and punishment in respect of an offence constituting, in substance, an act of torture](#), *op. cit.*, para. 64.

¹⁷⁰ [Recommendation CM/Rec\(2016\)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors](#), adopted at the 1253rd meeting of the Ministers’ Deputies on 13 April 2016, para. 24.

¹⁷¹ Venice Commission, [CDL-AD\(2024\)003](#), Spain –Opinion on the rule of law requirements of amnesties, with particular reference to the parliamentary bill of Spain “on the organic law on amnesty for the institutional, political and social normalisation of Catalonia”, adopted by the Venice Commission at its 138th Plenary Session, 15-16 March 2024, para. 60.

¹⁷² *Ibid.*, para. 122.

¹⁷³ [Marguš v. Croatia](#) [GC], *op. cit.*, para. 139.

¹⁷⁴ See [A/72/10 \(2017\)](#), UN General Assembly, “Report of the International Law Commission on the work of its sixty-ninth session (Agenda item 81),” Article 10, Commentary, para. 9.

¹⁷⁵ [Reykjavík Declaration, “United around our values.”](#) *op. cit.*, p. 4.

¹⁷⁶ See [CDDH-ELI\(2024\)12](#), Key points made by Frédéric Dolt.

Chamber emphasised the challenges faced in executing judgments concerning torture and other forms of ill-treatment due to the existence of limitation periods in the domestic legal systems of member States. Several member States have taken measures to address this issue and thus prevent impunity for State officials who have committed such acts. In particular, some have amended their legislation to abolish statutes of limitations for acts of torture.¹⁷⁷ Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States adopt similar measures to facilitate the execution of the Court's judgments involving serious human rights violations.

iv. Immunities of State Officials

100. Another potential obstacle to accountability for serious human rights violations is the application of immunities to state officials.¹⁷⁸ The CDDH notes that the 2011 Guidelines do not address this issue.

101. The normative issues relating to immunities are being discussed in more specialised fora. The ILC is currently working on the topic, notably through the adoption in 2022 of the Draft articles on the immunity of State officials from foreign criminal jurisdiction.¹⁷⁹ The issue of immunities has also been examined in the context of the work of the Core Group on the establishment of a Special Tribunal for the crime of aggression against Ukraine, as reflected in the Statute of the Tribunal signed by the Council of Europe and Ukraine in June 2025.¹⁸⁰

v. Separation of Powers, Independence of the Judiciary

102. The 2011 Guidelines broadly emphasise the need to ensure the independence and impartiality of investigations and the judiciary, in accordance with the principle of the separation of powers.¹⁸¹

103. Given the importance of ensuring an independent and functioning judiciary in promoting supporting and enabling environments for the prevention of human rights violations and abuses,¹⁸² the CDDH considers that revised Guidelines and/or (an) additional non-binding instrument(s) could further elaborate on international standards governing the separation of powers and judicial independence, taking into account recent jurisprudence of the Court¹⁸³ and recommendations from the Venice Commission.¹⁸⁴ This includes reinforcing the principles of independence, impartiality, and transparency in judicial processes, particularly related to serious violations of human rights. In

¹⁷⁷ See [Advisory Opinion on the applicability of states of limitation for prosecution, conviction and punishment in respect of an offence constituting, in substance, an act of torture](#), *op. cit.*, para. 64.

¹⁷⁸ In the context of enforced disappearances, see Working Group on Enforced or Involuntary Disappearances, "[Universal criminal jurisdiction in cases of enforced disappearance](#)," *op. cit.*, paras. 58-62.

¹⁷⁹ See [A/77/10](#), Report of the International Law Commission, adopted on the Seventy-third session, 18 April–3 June and 4 July–5 August 2022, VI., pp. 188-286.

¹⁸⁰ See [Agreement on the Establishment of the Special Tribunal for the Crime of Aggression against Ukraine](#), *op. cit.*, Annex Statute of the Special Tribunal for the Crime of Aggression against Ukraine, Articles 4(2), 23(4) and (5), 24(4) and 25(2).

¹⁸¹ See 2011 Guidelines, VI and IX.

¹⁸² See [A/HRC/RES/51/14](#), Resolution of the UN General Assembly, "The role of prevention in the promotion and protection of human rights: the rule of law and accountability," adopted on 6 October 2022, para. 3(m). See also "[Dealing with the past for a better future](#)," *op. cit.*, pp. 81 and 86, in which the Council of Europe Commissioner for Human Rights identified the lack of independence of the judiciary as a long-standing rule of law challenge in the region which reflects negatively on transitional justice. Moreover, the Commissioner identified that "national justice systems must be allowed to work independently and prioritise cases involving high-level perpetrators and those bearing responsibility for the most serious crimes" as a key element to strengthen war crimes prosecutions in the region.

¹⁸³ See European Court of Human Rights, "[Factsheet - Independence of the justice system](#)," August 2023.

¹⁸⁴ See [Compilation of Venice Commission Opinions and Reports concerning Courts](#), CDL-PI(2023)020, 18 July 2023; [Compilation of Venice Commission Opinions and Reports concerning Judges](#), CDL-PI(2023)019, 18 July 2023.

this regard, a recent report of the Council of Europe’s Group of States against Corruption (GRECO) expressed serious concern about persistent threats to judicial independence in some member States, urging states to strengthen the structures separating the three branches of power and calling for further action to safeguard the independence of judicial councils from legislative and/or executive powers.¹⁸⁵ Recommendations elaborated in revised Guidelines and/or (an) additional non-binding instrument(s) could stem from the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality adopted in 2016¹⁸⁶ and its implementation report.¹⁸⁷ This work continues to be followed up by the European Committee on Legal Cooperation (CDCJ).¹⁸⁸

104. In assessing whether a tribunal can be considered as “independent,” the Court examines the manner of appointment of its members, their term of office, the existence of guarantees against external pressures, and whether the judicial body presents an appearance of independence.¹⁸⁹ Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States take measures promoting the independence of the judicial system, such as:

- adopting clear standards for judicial appointment and tenure, ensuring that selection and appointment processes are transparent and merit-based, that is with judges who fulfil the requirements of technical competence and moral integrity to perform the judicial functions required of it;¹⁹⁰
- ensuring that the relevant domestic law on judicial appointments is couched in unequivocal terms to the extent possible, so as not to allow arbitrary interferences in the appointment process, including by the executive;¹⁹¹
- ensuring that judicial bodies satisfy the requirements of independence, in particular from the executive, and of impartiality;¹⁹² and
- strengthening institutional safeguards and, where applicable, considering establishing or reinforcing independent prosecutorial and judicial councils with mandates to oversee prosecutorial and judicial appointments, discipline and administration.¹⁹³

105. Regarding the investigation and prosecution of serious human rights violations, the Court has emphasised that all reasonable steps must be taken to ensure that investigations are

¹⁸⁵ Group of States Against Corruption (GRECO), [25th General Activity Report \(2024\)](#), adopted by GRECO in March 2025, pp. 10-11. The Consultative Council of European Judges (CCJE) of the Council of Europe also recognised that although, in general, the separation of powers is accepted by all member states, a number of conflicts and tensions surfaced. The judiciary must be independent to fulfil its constitutional role in relation to the other powers of the state, society in general, and the parties to any particular dispute. See [CCJE Opinion No. 18 \(2015\)](#), “The position of the judiciary and its relation with the other powers of state in a modern democracy,” para. 10 and clause 3 of Chapter VIII, Summary of principal points. The CCJE also emphasised the important role and functions of the Councils for the Judiciary in this regard, and the independence of the judiciary has been a key cross-cutting issue in all CCJE Opinions. See [CCJE Opinion No. 24 \(2021\)](#), “Evolution of the Councils for the Judiciary and their role in independent and impartial judicial systems.” As regards prosecutors, the Consultative Council of European Prosecutors (CCPE) underlined that the independence and autonomy of prosecution services constitute an indispensable corollary to the independence of the judiciary, and that appropriate provisions should be adopted in member states to strengthen the independence, accountability and ethics of prosecutors, whether in the criminal law field or as regards their other fields of competence. See [CCPE Opinion No. 9 \(2014\)](#), “European norms and principles concerning prosecutors,” Rome Charter, Section IV; [CCPE Opinion No. 13 \(2018\)](#), “Independence, accountability and ethics of prosecutors,” Recommendations, point i.

¹⁸⁶ See CM(2016)36 final, [Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality](#), adopted at the 1253rd meeting of the Ministers’ Deputies on 13 April 2016.

¹⁸⁷ See CDCJ, [Review of the Implementation of the Council of Europe Plan of Action on Strengthening Judicial Independence and Impartiality](#), adopted by the CDCJ on 1-3 June 2022.

¹⁸⁸ See CDCJ, [Judicial independence and impartiality](#).

¹⁸⁹ See for example, [Luka v. Romania](#), appl. no. 34197/02, 21 July 2009, para. 37 (only available in French).

¹⁹⁰ See [Guðmundur Andri Ástráðsson v. Iceland](#) [GC], appl. no. 26374/18, 1 December 2020, para. 220.

¹⁹¹ *Ibid.*, para. 230.

¹⁹² *Ibid.*, para. 232.

¹⁹³ See Committee of Ministers [Recommendation CM/Rec\(2010\)12](#), “Judges: independence, efficiency and responsibilities,” adopted on 17 November 2010.

independent, effective, and subject to public scrutiny to maintain confidence in their outcomes.¹⁹⁴ To address proceedings specifically related to serious human rights violations, revised Guidelines and/or (an) additional non-binding instrument(s) could include additional safeguards, such as:

- mandatory training for judges and prosecutors working in relevant fields, notably those involved in the adjudication and prosecution of serious human rights violations, including international criminal law and international humanitarian law, to ensure they possess the necessary expertise;
- ensuring the appropriate financial and administrative autonomy of the judiciary by allocating adequate and independent budgets, particularly for complex and often lengthy cases involving serious human rights violations, to prevent undue financial leverage by other branches of power;
- introducing accountability mechanisms to address judicial bias or misconduct in cases of serious human rights violations, enhancing public trust in the judicial system; and
- strengthening independent oversight bodies to investigate allegations of unlawful detention or ill-treatment. This includes reinforcing the role of National Preventive Mechanisms (NPMs), which have been established in many Council of Europe member States.

106. The 2011 Guidelines already stress that lawyers, prosecutors and judges should not fear reprisals for exercising their functions.¹⁹⁵ Recent developments have underlined the importance of reiterating and expanding this guarantee at the international level.¹⁹⁶

107. Among other entities, PACE has recently condemned “any attempts by States not party to the Rome Statute to sanction the ICC and its staff,” underlining that this may result in “the obstruction of its work and lack of cooperation by some State parties.”¹⁹⁷

108. Revised Guidelines and/or (an) additional non-binding instrument(s) could underline that reprisals or sanctions against judicial and prosecutorial staff, both national and international, undermine accountability for serious human rights violations, threaten the integrity of justice processes, and should be addressed adequately at national and international levels.

109. The Committee of Ministers has recently adopted the first-ever international treaty aiming to protect the profession of lawyer and the right to practice this profession with independence and without discrimination, improper hindrance or interference. The convention also aims at protecting lawyers from attacks, threats, harassment or intimidation.¹⁹⁸ Revised Guidelines and/or (an)

¹⁹⁴ *Al-Skeini and Others v. the United Kingdom*, appl. no. 55721/07, 7 July 2011, paras. 164, 166-167.

¹⁹⁵ See 2011 Guidelines, IX.

¹⁹⁶ See UN News, “[UN rights chief decries ‘relentless intensification’ of US sanctions against International Criminal Court staff](#),” 21 August 2025. See also ICC, “[Statement by the Bureau of the Assembly of State Parties in support of the independence and impartiality of the International Criminal Court](#),” 23 January 2025; “[ICC condemns the issuance of US Executive Order seeking to impose sanctions on the Court](#),” 7 February 2025; “[Statement of ICC President Judge Tomoko Akane following the issuance of US Executive Order seeking to impose sanctions on the International Criminal Court](#),” 7 February 2025; “[The International Criminal Court deplores new sanctions from the US administration against ICC Officials](#),” 5 June 2025; “[Presidency of the Assembly of State Parties expresses deep concern and rejects U.S. measures targeting ICC officials as a threat to international justice](#),” 6 June 2025; “[Statement of ICC President Judge Tomoko Akane on 17 July, Day of International Criminal Justice](#),” 17 July 2025, stating that “[w]hile the ICC, its officials, and other actors in the field of justice have come under increasing pressure, attacks, threats and sanctions, the Court will remain undeterred in fulfilling the mandate given to it by the 125 State Parties”; “[The ICC strongly rejects new US sanctions against Judges and Deputy Prosecutors](#),” 20 August 2025; “[Presidency of the Assembly of States Parties expresses deep concern and objects to additional U.S. sanctions targeting ICC elected officials](#),” 21 August 2025. See also “[International Criminal Court condemns US economic sanctions](#),” 2 September 2020.

¹⁹⁷ See PACE [Resolution 2598\(2025\)](#), “Russian war of aggression against Ukraine: the need to ensure accountability and avoid impunity,” adopted on 9 April 2025, para. 14.3.

¹⁹⁸ Article 1 of the Council of Europe [Convention for the Protection of the Profession of Lawyer](#), adopted by the Committee of Ministers at its 1522nd meeting on 11 and 12 March 2025.

additional non-binding instrument(s) could encourage, where appropriate, Council of Europe member States to sign and ratify this convention.

110. Transparency is essential for the effective functioning of the justice system, as it strengthens public trust in courts and prosecutors. To enhance transparency, revised Guidelines and/or (an) additional non-binding instrument could recommend member States to:

- publish judicial decisions in accessible formats, including digital versions;
- ensure public access to hearings, where appropriate, and facilitate media access to relevant and appropriate case information;
- promote better communication between the judiciary, prosecutors and the media to enhance public awareness and trust;¹⁹⁹ and
- establish victim-friendly procedures, such as ensuring victims have access to legal assistance and case information (see below, Cluster 4).

vi. Fair Trial Guarantees

111. The 2011 Guidelines include safeguards to protect individuals deprived of their liberty from serious human rights violations. These safeguards aim to prevent any unlawful detention or ill-treatment and to ensure the right to a fair and public hearing for those accused of committing such violations.²⁰⁰

112. The CDDH considers that revised Guidelines and/or (an) additional non-binding instrument(s) could incorporate further safeguards in light of the Court's case-law on the right to a fair trial.²⁰¹ In particular, these revisions could recommend that member States adopt or maintain measures to uphold the principle of a fair trial in proceedings involving serious human rights violations, including:

- ensuring the fairness of the proceedings, while balancing the need for police authorities to take effective measures to counter serious crimes in discharge of their duty under Articles 2, 3 and 5(1) of the Convention to protect the right to life and the right to bodily security of members of the public;²⁰²
- providing additional safeguards for individuals on trial for serious human rights violations, ensuring that even those accused of grave crimes receive justice in line with international standards. This includes the right to legal representation at all stages of the proceedings, particularly when the seriousness of the offence and the severity of the potential penalties justify free legal representation.²⁰³ Other essential safeguards include adequate time and facilities to prepare a defence and the right to appeal a judgment, subject to statutory requirements which should not undermine the fairness of the proceedings;²⁰⁴

¹⁹⁹ See the European Commission for the Efficiency of Justice (CEPEJ), [Guide on communication with the media and the public for courts and prosecution authorities](#), adopted at the 31st plenary meeting of the CEPEJ on 3 and 4 December 2018. See also [CM\(2013\)161-add](#), Opinion No. 8 (2013) of the Consultative Council of European Prosecutors (CCPE) on relations between prosecutors and the media, adopted on 22 January 2014.

²⁰⁰ See 2011 Guidelines, IV and IX.

²⁰¹ See European Court of Human Rights, [Guide on article 6 of the European Convention on Human Rights – Right to a fair trial](#) (criminal limb), updated on 28 February 2025.

²⁰² [Ibrahim and Others v. the United Kingdom](#) [GC], appl. nos. 50541/08, 50571/08, 50573/08 and 40351/09, 13 September 2016, para. 252.

²⁰³ [Benham v. the United Kingdom](#) [GC], appl. no. 19380/92, 10 June 1996, para. 61; [Quaranta v. Switzerland](#), appl. no. 12744/87, 24 May 1991, para. 33; [Zdravko Stanev v. Bulgaria](#), appl. no. 32238/04, 6 November 2012, para. 38.

²⁰⁴ Article 6 guarantees apply in principle to appeals on points of law. See [Meftah and Others v. France](#) [GC], appl. nos. 32911/96, 35237/97 and 34595/97, 26 July 2002, para. 40.

- ensuring that, if trials for serious human rights violations are held *in absentia*, the guarantees resulting from the Convention as interpreted by the Court are respected;²⁰⁵ and
- ensuring effective participation in the proceedings, including specific protections for vulnerable defendants.²⁰⁶ Juvenile defendants, in particular, should be afforded proceedings that respect the principle of the best interests of the child. This includes taking full account of their age, level of maturity, and intellectual and emotional capacities, and ability to understand and participate in the proceedings.²⁰⁷

113. Information provided by NHRIs, international organisations and NGOs, along with other sources, can play an important role in criminal proceedings related to serious human rights violations. Such information may contribute to the establishment of facts, support efforts to ascertain the truth, and ultimately help to prevent impunity.²⁰⁸

114. Additionally, revised Guidelines and/or (an) additional non-binding instrument(s) could recognise the evolving increasing reliance on digital technologies, including open-source intelligence and social media content.²⁰⁹ The 2011 Guidelines do not address these developments, despite the fact that digitalisation of justice systems of member States is constantly developing (see below, paragraphs 115-118) and that accountability bodies dealing with serious human rights violations, particularly international crimes, now regularly handle large volumes of electronic, pictorial and social media evidence. Establishing guidelines for managing and securing digital evidence is essential, including to prevent investigative bodies from being overwhelmed²¹⁰ and to secure entire digital platforms used by courts in the investigation of serious human rights violations.²¹¹ For example, the Register of Damage for Ukraine relies exclusively on digital evidence due to necessity and to efficiency process a large number of claims.²¹² The Register also uses mass claims processing techniques and tools, such as computer-assisted data processing, data analysing and sampling, with the use of artificial intelligence (AI).²¹³ In 2022, Eurojust has established the Core International Crimes Evidence Database²¹⁴ to preserve, analyse, and store evidence of core international crimes. This digital database enables national judicial authorities to identify relevant evidence located in other jurisdictions. UNODC has also developed standards and

²⁰⁵ Such as: every reasonable effort is made to bring the proceedings to the attention of the accused, fair trial guarantees, including the right to an appeal, are protected, and where the defendant was unable to participate, retrial opportunities are provided. See [Sanader v. Croatia](#), appl. no. 66408/12, 12 February 2015, paras. 72-74; See also “[Key theme: Article 6 \(criminal limb\) Waiver of the guarantees of a fair trial](#),” *op. cit.*; “[Memorandum on Human Rights Elements for Peace in Ukraine](#),” *op. cit.*, para. 17.

²⁰⁶ [Hasáliková v. Slovakia](#), appl. no. 39654/15, 24 June 2021, para. 69, concerning defendants with intellectual impairments.

²⁰⁷ [V. v. the United Kingdom](#) [GC], appl. no. 24888/94, 16 December 1999, paras. 85-86; [Blokhin v. Russia](#) [GC], appl. no. 47152/06, 23 March 2016, para. 195.

²⁰⁸ The case of Michel-Thierry Atangana was brought to the attention of the CDDH-ELI. Mr Atangana, a French national of Cameroonian origin, was arbitrarily detained for 17 years in Cameroon. He was released in 2014, partly thanks to an opinion by the UN Working Group on Arbitrary Detention. Despite his release, Mr. Atangana was not cleared and found himself in a difficult situation. He drew the attention of French elected representatives, which led to the introduction of a new provision in the French Code of Criminal Procedure. This article enables the French judicial authorities to take into consideration the opinions and reports of international organisations as evidence in French criminal proceedings, with a view to establishing the material element of an offence or contributing to the ascertainment of the truth. See more: Le Monde, “[Michel Thierry Atangana: ‘Mon combat je le mène avec calme, parce que je sais son importance’](#),” 28 March 2024 (only available in French).

²⁰⁹ See [CDDH-ELI\(2025\)01](#), Key Points made by Amélie Becquart.

²¹⁰ See [The Prague Statement](#), *op. cit.*, p. 3.

²¹¹ For instance, see B. Thorne, “[Artificial Sanctions: Potential Implications of US Sanctions on the ICC’s use of AI and Digital Evidence](#),” *Opinio Juris*, 25 February 2025.

²¹² See [CDDH-ELI\(2025\)01](#), Key Points made by Markiyan Kliuchkovskiy.

²¹³ Register of Damage for Ukraine, [Rules Governing the Submission, Processing and Recording of Claims](#), Article 20(1).

²¹⁴ See more information about the [Core International Crimes Evidence Database](#).

best practices for digital forensics,²¹⁵ while Interpol has issued guidelines for digital forensics first responders, listing best practices for maintaining evidence integrity during search and seizure operations.²¹⁶

115. The Council of Europe has developed several conventions relevant to transfer of evidence and digital technologies, such as the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108),²¹⁷ the Second Additional Protocol to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence (CETS No. 224),²¹⁸ and the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (CETS No. 225).²¹⁹ In particular, the Second Additional Protocol to the Convention on Cybercrime enhances international cooperation for the disclosure of data in specific criminal investigations or proceedings concerning criminal offences related to computer systems and data and to the collection of evidence in electronic form of a criminal offence.²²⁰ This Additional Protocol and the Framework Convention on Artificial Intelligence have not come into force yet.

116. The Council of Europe contributes to strengthening electronic evidence-handling capacities in cases of war crimes and gross human rights violations in Ukraine.²²¹

117. In 2024, the Council of Europe Committee on Counter-Terrorism (CDCT), in partnership with the International Institute for Justice and the Rule of Law, adopted Comparative Practices on the Use of Information Collected in Conflict Zones as Evidence in Criminal Proceedings, thereby providing guidance to practitioners to assist in investigations and prosecutions of crimes of terrorism and other crimes, such as violations of international humanitarian law committed in the context of an armed conflict, to meaningfully advance accountability and justice.²²² Furthermore, the Committee of Ministers has adopted foundational principles in its Guidelines on electronic evidence in civil and administrative proceedings.²²³ These Guidelines could serve as a foundation for developing further recommendations in criminal proceedings.

118. PACE adopted a Resolution stressing the need to regulate the use of AI for use by the police and criminal justice systems based on universally accepted and applicable core ethical principles, such as transparency, justice and fairness, human responsibility for decisions, safety

²¹⁵ See UNODC, "[Standards and best practices for digital forensics](#)."

²¹⁶ See Interpol, "[Guidelines for Digital Forensics First Responders](#)," March 2021.

²¹⁷ The Council of Europe [Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data](#) (ETS No. 108) entered into force in 1985 and has been ratified by all Council of Europe member States as well as nine non-member States (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

²¹⁸ The Council of Europe [Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence](#) (CETS No. 224) will enter into force after five ratifications – to date, it has been ratified by two states (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

²¹⁹ The Council of Europe [Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#) (CETS No. 225) will enter into force after five ratifications including at least three member States of the Council of Europe – to date, it has been signed by 16 states and the European Union (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

²²⁰ Article 2 of the [Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence](#), *op. cit.*

²²¹ See Council of Europe project [CyberUA](#), which aims to contribute to improvement of the handling of electronic evidence for use in criminal proceedings related to war crimes and gross human rights violations in the context of the Russian aggression against Ukraine through strengthening the criminal justice capacities of Ukrainian law enforcement, prosecutors and the judiciary on handling electronic evidence in criminal cases.

²²² CDCT, "[Comparative Practices on the Use of Information Collected in Conflict Zone in Criminal Proceedings](#)," December 2024.

²²³ [CM\(2018\)169-add1final](#), Guidelines of the Committee of Ministers of the Council of Europe on electronic evidence in civil and administrative proceedings, adopted at the 1335th meeting of the Ministers' Deputies on 30 January 2019.

and security, and privacy and data protection. In particular, PACE called on member States to adopt national legal framework to regulate the use of AI, based on these principles.²²⁴

119. It may be considered necessary to modernise the 2011 Guidelines to reflect these rapid technological advancements affecting accountability mechanisms. Revised Guidelines and/or (an) additional non-binding instrument(s) could:

- call for the establishment of standardised procedures for the collection, preservation, analysis and presentation of digital evidence of serious human rights violations, ensuring adherence to principles of integrity, authenticity and admissibility;
- encourage the use of AI tools to enhance the efficiency and accuracy of digital evidence analysis of serious human rights violations, while ensuring compliance with legal standards, ethical guidelines and security, and call on member States to adopt domestic legal frameworks to regulate the use of such technologies in this context;
- develop training programmes to equip law enforcement, prosecutors, and the judiciary with the necessary skills to handle digital evidence and AI applications in investigations of serious human rights violations;
- promote international and regional collaboration among member States to harmonise legal frameworks and facilitate cross-border exchanges of digital evidence. This could include encouraging the use of common digital platforms to store and share evidence related to serious human rights violations; and
- ensure that the use of digital evidence and AI technologies in investigations of serious human rights violations respect human rights, including privacy and fair trial guarantees.

120. Revised Guidelines and/or (an) additional non-binding instrument(s) could encourage, where appropriate, member States to sign and ratify existing Council of Europe instruments in this field, including the Second Additional Protocol to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence and the Framework Convention on Artificial Intelligence.

vii. Modes of Criminal Liability

121. The 2011 Guidelines address the accountability of subordinates, emphasising that orders or instructions from a superior cannot serve as a justification for evading accountability for serious human rights violations.²²⁵ The reference texts of the 2011 Guidelines cite the Statutes of the ICTY, the International Criminal Tribunal for Rwanda (ICTR), and the ICC, each of which include the principle that superior orders do not exempt individuals from responsibility. They also reference PACE Resolution 1675(2009)²²⁶ and Principle 27 of the UN Updated Set of Principles.

122. Experts suggested to the CDDH-ELI that the 2011 Guidelines do not adequately address other essential modes of liability necessary for ensuring full accountability for certain serious human rights violations constituting crimes.²²⁷ In 2022, in order to fight impunity in the context of the

²²⁴ [PACE Resolution 2342 \(2020\)](#), “Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems,” adopted on 22 October 2020, paras. 4 and 9. See also Europol, [“AI and policing: The benefits and challenges of artificial intelligence for law enforcement,”](#) 2024.

²²⁵ See 2011 Guidelines, XIII.

²²⁶ See PACE [Resolution 1675\(2009\)](#), “State of human rights in Europe: the need to eradicate impunity,” adopted on 24 June 2009.

²²⁷ See [CDDH-ELI\(2024\)12](#), Key Points made by Kate Vigneswaran and Key Points made by Chiara Gabriele. See also ICJ, TRIAL International and FIDH, Submission to the Steering Committee for Human Rights on revision or supplementation of the Guidelines on Eradicating Impunity for Serious Human Rights Violations, January 2025, p. 17; [“Dealing with the past for a better future,”](#) *op. cit.*, p. 38, where the Commissioner for Human Rights underscored the importance of using modes of liability under international law in order to establish the responsibility of high-level officials in serious human rights violations.

Russian's aggression against Ukraine, the Council of the EU called on member States to adopt measures to fully implement the modes of liability enshrined in the Rome Statute.²²⁸ To strengthen accountability, revised Guidelines and/or (an) additional non-binding instrument(s) could encourage member States to incorporate the full spectrum of modes of liability specific to international crimes into their domestic legislation, such as: direct and indirect (co)-perpetration, other forms of perpetrations (aiding and abetting, ordering and instigating), command responsibility, responsibility for inchoate crimes (attempt and conspiracy), and the responsibility of commanders and superiors.²²⁹ By expanding the scope of liability, these revisions would reinforce accountability frameworks and help ensure that all forms of perpetration of serious human rights violations constituting crimes are effectively prosecuted at the national level.

4. Cluster 4: Issues related to the Rights of Victims

123. The CDDH examined issues related to the rights of victims in the spectrum of eradicating impunity for serious human rights violations and while the 2011 Guidelines offer a framework for victims' rights, recent developments in victims' rights and best practices reveal gaps that need to be addressed.

i. Right "to Know the Truth"²³⁰

124. The 2011 Guidelines recognise that impunity inflicts additional suffering on victims and must be combated as a matter of justice.²³¹ They also affirm victims' right to participate in investigations to safeguard their legitimate interests²³² and establish that, in cases of suspicious death or enforced disappearances, states must provide information about the fate of the person concerned to their family.²³³ While the Guidelines do not explicitly mention the right "to know the truth," it is mentioned in their reference texts, which cite the UN Updated Set of Principles on impunity where this right is defined as the imprescriptible right of victims and their families to know the truth about the circumstances of violations and, in cases of death or disappearance, the fate of the victims.²³⁴ The UN Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law also acknowledge the right of victims to learn the truth about these violations.²³⁵ In 2014, the UN General Assembly highlighted the importance of this right in addressing gross human rights violations.²³⁶

125. The Court has recognised the "right to the truth" within its assessment of the effectiveness of judicial investigations and in the context of potential compensation right.²³⁷ The Grand Chamber

²²⁸ See EU press release, "[Council adopts conclusions on the fight against impunity in Russia's war of aggression against Ukraine](#)," 9 December 2022.

²²⁹ See [CDDH-ELI\(2024\)12](#), Key Points made by Chiara Gabriele.

²³⁰ The study refers to the right to know the truth, bearing in mind the preamble of UN General Assembly Resolution [A/RES/68/165](#) (Right to the Truth, 21 January 2014), which observes that "a specific right to the truth may be characterized differently in some legal systems as the right to know or the right to be informed or to freedom of information." See for example [Petrović and others v. Croatia](#), appl. no. 32514/22, 33284/22 and 15910/23, 14 January 2025, where the Court referred to a right to obtain a response to a request for information.

²³¹ See 2011 Guidelines, Preamble and I.3.

²³² *Ibid.*, Preamble and VII.

²³³ *Ibid.*, Preamble and VII(3).

²³⁴ 2011 Reference Texts referring to [UN Updated Set of Principles](#), *op. cit.*, Principle 4.

²³⁵ [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principle 24.

²³⁶ See [A/RES/68/165](#), *op. cit.*

²³⁷ [Association "21 December 1989" and Others v. Romania](#), appl. no. 33810/07, 24 May 2011, para. 144, where the Court emphasised "the importance of the right of victims and their families and heirs to know the truth about the circumstances surrounding events involving a massive violation of rights as fundamental as that of the right to life, which implies the right to an effective judicial investigation and a possible right to compensation."

has ruled that an inadequate investigation deprives victims of the right to be informed about what happened and cannot be regarded as establishing the truth.²³⁸ In a particular relevant judgment, the Court affirmed that when allegations of serious human rights violations are investigated, the right to the truth does not belong solely to the victims of the crime and their family but also to other victims of similar violations and the general public, who have a right to know what has happened.²³⁹

126. The Council of Europe Commissioners for Human Rights have long spoken about the right to truth of direct victims of serious human rights violations as well as of their relatives and the society as a whole.²⁴⁰ The UN High Commissioner for Human Rights has also recognised the societal dimension of the right to truth, affirming that society as a whole has the right to know the truth about past events involving heinous crimes, as well as the circumstances and reasons behind these crimes, to prevent their recurrence in the future.²⁴¹

127. More recently, the Court has indirectly addressed the right to truth in the context of prosecuting international crimes. It ruled that the reopening of criminal proceedings, the acquittal of individuals previously convicted of crimes related to the Holocaust, and the authorities' failure to inform the public and the applicants about these decisions or grant them access to the case files could affect the applicants' private life, thus falling under the scope of Article 8 of the Convention.²⁴²

128. In the 2023 Reykjavík Declaration, in the context of Russia's aggression against Ukraine, the Heads of State and Government of the Council of Europe reaffirmed that only by respecting the right to truth, justice and reparation and guarantees of non-repetition will it be possible to build unity in harmony and based on cooperation, with respect for human rights, democracy and the rule of law.²⁴³

129. PACE has emphasised that family members of disappeared persons must be granted the "right to the truth," which includes being informed about the fate of their relatives.²⁴⁴ The International Convention for the Protection of All Persons from Enforced Disappearances explicitly states that victims – defined as both the disappeared person and those who have suffered harm as a direct result of the enforced disappearance – have the "right to know the truth regarding the circumstances of the enforced disappearance, the progress and result of the investigation and the fate of the disappeared person."²⁴⁵ However, not all Council of Europe member States have signed and ratified this convention.²⁴⁶

²³⁸ See [El-Masri v. the Former Yugoslav Republic of Macedonia](#) [GC], appl. no. 39630/09, 13 December 2012, paras. 192-193.

²³⁹ See [Al Nashiri v. Poland](#), appl. no. 28761/11, 24 July 2014, para. 495. See also [El-Masri v. the Former Yugoslav Republic of Macedonia](#) [GC], *op. cit.*, para. 191.

²⁴⁰ See "[Report on Missing Persons and Victims of Enforced Disappearance in Europe](#)," *op. cit.*, p. 5.

²⁴¹ See [E/CN.4/2006/91](#), Report of the Office of the United Nations High Commissioner for Human Rights, 8 February 2006, para. 58.

²⁴² [Zăicescu and Fălticaneanu v. Romania](#), appl. no. 42917/16, 23 April 2024, paras. 114-119. The Court found a violation of Article 8, considering that "the domestic authorities failed to adduce relevant and sufficient reasons for their actions that led to the revision of historical convictions for crimes connected with the Holocaust in the absence of new evidence and by reinterpreting historically established facts and denying the responsibility of State officials for the Holocaust (in contradiction with principles of international law)", see para. 155.

²⁴³ [Reykjavík Declaration, "United around our values"](#), *op. cit.*, p. 4.

²⁴⁴ See PACE [Resolution 1463 \(2005\)](#), "Enforced disappearances," adopted on 3 October 2005, para. 10.2.

²⁴⁵ Article 24(2) of the [International Convention on Protection of All Persons from Enforced Disappearances](#), adopted on 23 December 2010.

²⁴⁶ Council of Europe Commissioners for Human Rights have repeatedly called on member states that have not yet done so to ratify the UN Convention for the Protection of All Persons From Enforced Disappearance. In 2025, the Commissioner added that "[t]his is essential to signal universal condemnation of this abhorrent crime and to ensure that, everywhere, enforced disappearances are prevented, investigated, and punished, and that victims and their families receive the support to which they are entitled." See "[Enforced disappearance inflicts profound suffering on victims and violates their right not to be subjected to torture and other cruel, inhuman or degrading treatment](#)", 29 August 2025.

130. The CDDH considers it necessary to align the 2011 Guidelines with the Court's case-law and the aforementioned UN texts, and therefore, revised Guidelines and/or (an) additional non-binding instrument(s) could:

- recognise the right to the truth as part of the obligations to conduct effective investigations, particularly in the context of criminal proceedings related to serious human rights violations, compensation right, and the right to private life;
- affirm that the right to truth extends beyond the direct victims and their families to include other victims of similar crimes and the general public, who have the right to know what has happened; and
- emphasise the need for measures to ensure the practical realisation of the right to truth, including through transparency of proceedings and access to non-confidential information.

131. Revised Guidelines and/or (an) additional non-binding instrument(s) could also encourage, where appropriate, Council of Europe member States to sign and ratify the International Convention for the Protection of All persons from Enforced Disappearances.

ii. Access to Information

132. Access to information and the right to the truth are closely interlinked. The right to information is a prerequisite for victims' effective participation in justice processes. However, access to information goes beyond victims, who have a specific right to receive information about criminal proceedings. Access to information also encompasses the general public's right to seek and obtain information about past events. This is a crucial tool for public awareness, especially given the importance of transparency and accountability of public authorities in a democratic society.

133. The 2011 Guidelines state that, as part of general measures to prevent impunity, states should provide information to the public regarding violations and the authorities' responses, and should preserve archives while ensuring access to them.²⁴⁷ They also recognise victims' rights to receive information on the follow-up and outcome of their complaints, the progress of investigations and prosecutions, the execution of judicial decisions, and any measures taken in relation to reparations.²⁴⁸ However, the Guidelines' reference texts do not provide further details, apart from quoting the now-repealed EU Framework Decision on victims' rights.²⁴⁹ In 2012, the EU adopted a new directive on victims' rights, setting minimum standards on the rights, support, and protection of victims of crime in EU member States. This directive includes victims' right to receive information from the first contact with competent authorities.²⁵⁰

134. In 2002, the Committee of Ministers adopted Recommendation Rec(2002)2 on access to public documents, recommending that member States guarantee the right of everyone to access official documents held by public authorities.²⁵¹ Since then, the Court has developed its case-law and now holds that the right of access to information held by public authorities falls within the scope of Article 10 of the European Convention on Human Rights.²⁵² The Court has also recognised the

²⁴⁷ See 2011 Guidelines, III (3).

²⁴⁸ *Ibid.*, VII (2).

²⁴⁹ [2001/220/JHA](#), Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings.

²⁵⁰ [Directive 2012/29/EU](#) of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Article 4.

²⁵¹ See Committee of Ministers [Recommendation Rec\(2002\)2](#) to member States on access to official documents, adopted at the 784th meeting of the Ministers' Deputies on 21 February 2002.

²⁵² See Thematic Factsheet, "[The Right of Access to Information, a Key Prerequisite for the Freedom of Expression](#)," last updated in June 2018.

importance of access to information in ensuring effective investigations, accountability, and justice, particularly in cases involving serious human rights violations.²⁵³ The Council of Europe Commissioners for Human Rights have repeatedly called for the opening of state-held archives to allow access to information related to serious human rights violations.²⁵⁴

135. In 2020, the Council of Europe Convention on Access to Official Documents (CETS No. 205, Tromsø Convention)²⁵⁵ entered into force. The Convention builds on Recommendation Rec(2002)2 and is the first legally binding international instrument recognising a general right of access to official documents held by public authorities. However, access may be restricted to protect other, specified public interests, unless there is an overriding public interest in disclosure. To date, this convention has been ratified by 17 member States.

136. PACE adopted several resolutions recognising the right of access to information as a universal human right and called on member States to uphold the main principles that govern access to information, including in areas of national security²⁵⁶ and in connection with the right to freedom of information while ensuring access to historical documents.²⁵⁷

137. At the UN, the Human Rights Committee has affirmed that Article 19(2) of the ICCPR includes a right of access to information held by public bodies.²⁵⁸ In 2014, the UN General Assembly emphasised the importance of access to information in addressing gross human rights violations and reinforced states' obligations to preserve archives and facilitate public access.²⁵⁹

138. The importance of access to information in the fight against impunity is evident: it extends beyond individual victims to include the general public and the work of investigative journalists, who play a key role in uncovering the truth and exposing human rights violations. By fostering transparency, access to information strengthens efforts to hold perpetrators accountable and ensures institutional trust.

139. The CDDH considers that revised Guidelines and/or (an) additional non-binding instrument(s) could expressly recognise the right of access to information in relation to serious human rights violations, and encourage states to adopt domestic legislation guaranteeing and enforcing this right. Additionally, revised Guidelines and/or an additional non-binding instrument(s) could encourage Council of Europe member States that have not yet done so to ratify the Tromsø Convention, where appropriate.

iii. Gender Equality-related Issues, Gender-responsive and Children-sensitive Investigations

140. Integrating a gender perspective into efforts to combat impunity for serious human rights violations is essential to ensure comprehensive, responsive, and inclusive justice, and to expose

²⁵³ See [El-Masri v. the Former Yugoslav Republic of Macedonia](#) [GC], *op. cit.*; [Al-Nashiri v. Poland](#), appl. no. 28761/11, 24 July 2014; [Tagayeva and Others v. Russia](#), appl. no. 26562/07 and others, 13 April 2017.

²⁵⁴ See "[Dealing with the past for a better future](#)," *op. cit.*, pp. 90, 92, 97-99. See also "[Missing Persons and Victims of Enforced Disappearance in Europe](#)," *op. cit.*, paras. 19, 22.

²⁵⁵ The [Convention on Access to Official Documents](#) (CETS No.205) entered into force in 2020 – to date, it has been ratified by 17 Council of Europe member States (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

²⁵⁶ See PACE [Resolution 1954\(2013\)](#), "National security and access to information," adopted on 2 October 2013.

²⁵⁷ See PACE [Resolution 2535\(2024\)](#), "The right to freedom of information: ensuring access to historical documents," adopted on 7 March 2024.

²⁵⁸ See [General comment no. 34](#), "Article 19, Freedoms of opinion and expression," adopted by the Human Rights Committee on 11-29 July 2011.

²⁵⁹ See UN General Assembly Resolution [A/RES/68/165](#), *op. cit.*

underlying patterns of gender-based discrimination and violence.²⁶⁰ Efforts to address and prevent gender-based violence must take into account the complex experiences not only of women and girls, but also of men and boys as well as lesbian, gay, bisexual and transgender individuals.²⁶¹

141. Gender-based violence, including conflict-related sexual violence used as a tactic of war, torture and terrorism, remains widespread in conflict situations.²⁶² Sexual and gender-based violence have gained significant visibility through the work of the ICTY, the ICTR, the Special Court for Sierra Leone and the ICC, whose statutes recognise rape and other gender-based crimes as international crimes. However, reports of such violence against both women and men in Ukraine²⁶³ underscore the urgency of addressing these crimes and applying a gender lens to the investigation and prosecution of serious human rights violations. In the Reykjavík Declaration, the Heads of State and Government of the Council of Europe emphasised the need to protect Ukrainians from all forms of violence, including sexual and gender-based violence.²⁶⁴

142. Since 2009, the Court has reinforced states' obligations to effectively investigate gender-based violence,²⁶⁵ underlining the need for gender-sensitive legal frameworks and investigative procedures.²⁶⁶ The Istanbul Convention provides a comprehensive framework for preventing and prosecuting violence against women and domestic violence and for protecting victims. It establishes positive obligations on states to criminalise specific forms of violence, ensure gender-sensitive investigations, and provide comprehensive support to survivors. To date, not all Council of Europe member States have ratified the Istanbul Convention.

143. High levels of impunity persist in relation to gender-based violence. Many such crimes go unreported due to shame, fear of stigma or retaliation, trauma, and harmful gender stereotypes.²⁶⁷ According to the Group of experts on action against violence against women and domestic violence (GREVIO), the independent monitoring body of the Istanbul Convention, many cases – including intimate partner violence and rape – are discontinued at various stages of criminal proceedings, despite higher reporting rates in some countries.²⁶⁸ Inadequate case-building, poor police responses, over-reliance on victims' testimony, inadequate legislation, deficiencies in addressing the needs of victims, and a lack of trauma-informed training for investigators contribute to this.²⁶⁹ There is also insufficient attention to risk assessment and victim support, as well as a lack of mechanisms to hold state actors accountable when they fail to prevent and protect.²⁷⁰

144. The Reykjavík Declaration called on member States to ensure gender equality and the full, equal, and effective participation of women as essential components of the rule of law, democracy,

²⁶⁰ See [CDDH-ELI\(2025\)01](#), Key Points made by Johanna Nelles and by Paolina Massidda.

²⁶¹ See [A/75/174](#), Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, "The gender perspective in transitional justice processes," 17 July 2020, para. 4.

²⁶² See [S/2024/292](#), Report of the UN Secretary General on Conflict-related sexual violence, 4 April 2024.

²⁶³ *Ibid.*, paras. 71-74. See also [A/HRC/58/67](#), [Report of the Independent International Commission of Inquiry on Ukraine](#), 11 March 2025, paras. 48-55; [Memorandum on the human rights consequences of the war in Ukraine](#), *op. cit.*, paras. 29-36.

²⁶⁴ [Reykjavík Declaration, "United around our values"](#), *op. cit.*, p. 4. See also the "Declaration on the situation of the children of Ukraine, pp. 11-13; [Memorandum on Human Rights Elements for Peace in Ukraine](#)," *op. cit.*, para. 68, underlining the importance "to acknowledge the specific impact conflict has on women and girls. They are disproportionately affected by conflict-related sexual violence, including as a tactic of war."

²⁶⁵ See [Opuz v. Türkiye](#), appl. no. 33401/02, 9 June 2009.

²⁶⁶ For instances, see [Volodina v. Russia](#), appl. no. 41261/17, 9 July 2019; [Tunikova and others v. Russia](#), appl. nos. 55974/16 and 3 others, 14 December 2021.

²⁶⁷ See ["Memorandum on the human rights consequences of the war in Ukraine"](#), *op. cit.*, para. 31. See also [CDDH-ELI\(2025\)01](#), Key Points made by Johanna Nelles.

²⁶⁸ See [CDDH-ELI\(2025\)01](#), Key Points made by Johanna Nelles.

²⁶⁹ See ["The gender perspective in transitional justice processes"](#), *op. cit.*, para. 51.

²⁷⁰ See [CDDH-ELI\(2025\)01](#), Key Points made by Johanna Nelles.

and sustainable development.²⁷¹ This commitment should also be reflected in efforts to eradicate impunity, by ensuring women are actively involved and meaningfully participate in related processes.

145. Despite the existence of international and European standards promoting gender-sensitive and inclusive approaches, the 2011 Guidelines do not address gender dimensions. The reference texts of the 2011 Guidelines only mention rape and sexual violence as serious human rights violations and refer to the Court's case-law under Articles 3 and 8 of the Convention regarding the obligation to investigate and prosecute such crimes.²⁷²

146. The 2011 Guidelines also fail to recognise that victims of gender-based violence are affected differently and require tailored responses. This gap could be addressed in revised Guidelines and/or (an) additional non-binding instrument(s).

147. In 2018, the Office of the UN High Commissioner for Human Rights (OHCHR) issued guidance and practice on integrating a gender perspective in human rights investigations, encouraging gender-sensitive methodologies and victim-centred approach.²⁷³ Recommendations include gender-specific interview protocols, systematic collection of sex-disaggregated data, and mandatory training for police, investigations teams, prosecutors, and judges to support proper documentation and accountability.²⁷⁴ In 2019, the UN Security Council adopted Resolution 2467 (2019) on how to end impunity for sexual violence crimes in conflict and post-conflict, calling for a survivor-centred approach in preventing and responding to conflict-related sexual violence.²⁷⁵

148. Gender-inclusive strategies and approaches are now integrated into the work of international tribunals and bodies, such as the Office of the Prosecutor²⁷⁶ and the ICC,²⁷⁷ and the IIM.²⁷⁸ These forms of gender-based violence and their impacts necessitate application of an intersectional approach to the investigation, the charging strategy and to understand the elements of the crimes and modes of liability. This contributes to the development of comprehensive case files and the delivery of meaningful justice for victims.²⁷⁹ The Register of Damage for Ukraine also applies a gender policy, recognising differences in status, power, roles, and needs between women and men.²⁸⁰

149. Addressing secondary victimisation in the context of gender-based abuses and violations is also critical. The Council of Europe Commissioner for Human Rights has underscored the need to create safe conditions for victims to report and cooperate with law enforcement, and to avoid re-traumatisation.²⁸¹ Victims of gender-based violence must have access to medical, psychosocial,

²⁷¹ [Reykjavík Declaration, "United around our values"](#), *op. cit.*, p. 7.

²⁷² See [Opuz v. Türkiye](#), *op. cit.*; See also [CDDH-ELI\(2025\)01](#), Key Points made by Johanna Nelles.

²⁷³ See OHCHR, "[Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice](#)," 1 December 2018.

²⁷⁴ See also UN Report on "[The gender perspective in transitional justice processes](#)," *op. cit.*, paras. 52-54.

²⁷⁵ See [S/RES/2467\(2019\)](#), UN Security Council Resolution 2467(2019), 23 April 2019, para. 16.

²⁷⁶ See Office of the Prosecutor, [Policy on Gender-based Crimes](#): Crimes involving sexual, reproductive and other gender-based violence, December 2023.

²⁷⁷ See the [ICC-wide Gender Equality and Workplace Culture Strategy](#) (GEWC Strategy), launched on 8 December 2022. See also [CDDH-ELI\(2025\)01](#), Key Points made by Paolina Massidda.

²⁷⁸ See [CDDH-ELI\(2024\)12](#), Key points made by Robert Petit. See also [IIM Gender Strategy and Implementation](#), 30 September 2022.

²⁷⁹ See [CDDH-ELI\(2024\)12](#), Key points made by Robert Petit. See also Office of the Prosecutor of the ICC, [Policy on Gender-based Crimes](#), *op. cit.*, paras. 25, 40-41.

²⁸⁰ See [CDDH-ELI\(2025\)01](#), Key points made by Markiyana Kliuchkovskiy.

²⁸¹ See "[Memorandum on the human rights consequences of the war in Ukraine](#)," *op. cit.*, para. 31. See also Article 56 of the [Istanbul Convention](#).

and legal support, and the “do no harm” principle must guide all justice-related processes.²⁸² A coordinated, multi-disciplinary approach is essential to prevent repeated victimisation, including the burden of undergoing multiple interviews with different institutions.²⁸³

150. In addition, it is crucial to include children-sensitive justice and support measures in efforts to fight impunity for serious human rights violations. Child victims should be actively involved in justice processes if they wish, and their needs should not be overlooked by adult-centred procedures. In the Reykjavík Declaration, the Heads of State and Government of the Council of Europe recognised that children in Ukraine have suffered large-scale abuses and violations, highlighting the need to consider children’s rights in this context.²⁸⁴ The Committee of Ministers has adopted Guidelines on child-friendly justice, guiding member States on the place, role, views, rights, and needs of the child in judicial proceedings based on the principles of participation, the best interests of the child, dignity, protection from discrimination, and the rule of law.²⁸⁵ The Council of Europe Steering Committee for the Rights of Children (CDENF) is currently undertaking a thematic review of these guidelines, given the recent progress made on child-friendly justice and in view of developments in international and regional standards.²⁸⁶ The 2011 Guidelines could be updated to emphasise such principles and developments, and promote participation through procedures adapted to their needs, to ensure child-sensitive justice.²⁸⁷

151. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, Lanzarote Convention) offers strong safeguards for protecting children from sexual exploitation and abuse. It requires states to adopt legislative and other measures to prevent abuse, protect children, and promote their active involvement in the development of policies and procedures affecting them.²⁸⁸ In particular, investigations and proceedings must respect the child’s best interests and avoid further traumatising, with victims informed throughout the process in a child-friendly and accessible manner.²⁸⁹

152. In light of the above, the CDDH considers that the eradication of impunity for serious human rights violations could incorporate both gender- and child-sensitive dimensions. Revised Guidelines and/or (an) additional non-binding instrument(s) could:

- enshrine the importance of applying a child- and gender-sensitive approach to the eradication of impunity for serious human rights violations, including an intersectional approach;
- encourage member States to adopt legislative and policy measures to criminalise all forms of gender-based violence and promote the effective prevention, investigation, prosecution, and reparation of such acts;
- conduct awareness-raising campaigns to challenge societal norms and stereotypes that perpetuate gender-based violence; and
- strengthen accountability mechanisms, including those targeting state failures in prevention and protection.

²⁸² See “[Memorandum on the human rights consequences of the war in Ukraine](#),” *op. cit.*, pp. 10-12.

²⁸³ *Ibid.*, para. 34.

²⁸⁴ [Reykjavík Declaration, “United around our values”](#), *op. cit.*, p. 4 and “Declaration on the situation of the children of Ukraine,” pp. 11-14.

²⁸⁵ See [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), adopted at the 1098th meeting of the Ministers’ Deputies on 17 November 2010.

²⁸⁶ See CDENF, [Draft report on the thematic review of the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#), 26 March 2025.

²⁸⁷ See [CDDH-ELI\(2025\)01](#), Key Points made by Paolina Massidda.

²⁸⁸ Articles 4-5, 9, 11-14 of the [Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#), which entered into force in 2010 – to date, it has been ratified by 48 states, including all Council of Europe member States, and the EU (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

²⁸⁹ *Ibid.*, Articles 30(1) and (2), and 31(1), (2) and (6).

153. On gender- and child-sensitive investigations and proceedings, revised Guidelines and/or (an) additional non-binding instrument(s) could encourage member States to:

- foster greater gender diversity in police, prosecutorial and judicial institutions, by promoting the recruitment and representation of women;
- provide mandatory and specialised training for police, prosecutors, and judges on gender equality and gender-based violence, child-sensitive proceedings, trauma-informed approaches, and non-discrimination;
- ensure the systematic collection of sex- and age-disaggregated data to identify patterns of abuse and violations;
- establish accessible victim support services, including psychological counselling, shelters, and legal aid tailored to victims' needs;
- establish or reinforce victim and witness protection programmes, ensuring security, discretion and confidentiality in response to the risk situations faced by victims of sexual and gender-based violence;
- develop and implement confidential, victim-sensitive protocols for investigation and criminal prosecution of sexual and gender-based abuses and violations, including for interviewing and proceedings;
- apply a child-centred approach where applicable, ensuring children's participation is meaningful, safe and age-appropriate; and
- encourage the use of independent oversight mechanisms to monitor state compliance in these areas.

154. Revised Guidelines and/or (an) additional non-binding instrument(s) could also:

- support the alignment of domestic laws and policies with the standards derived from the Istanbul and Lanzarote Conventions; and
- encourage Council of Europe member States, where appropriate, to sign and ratify the Istanbul Convention.

iv. Victim Status

155. The eradication of impunity for serious human rights violations requires victims to be placed at the centre of justice efforts. While the 2011 Guidelines acknowledge certain rights of victims, a revised set of Guidelines and/or (an) additional non-binding instrument(s) could clarify and reinforce victims' status, explicitly affirming victims as rights-holders with an active role in justice processes, rather than passive recipients of outcomes.

156. With respect to legal recognition, the CDDH has examined and assessed the need to extend the definition of victims under the 2011 Guidelines to include legal persons (see above, Cluster 1).

157. Regarding procedural aspects linked to victim status, the CDDH recognises that challenges may arise in determining victim status in complex cases, such as those involving systemic abuses or large-scale violations. These challenges include identifying appropriate steps for granting victim status across judicial and non-judicial mechanisms, including truth commissions, reparations programmes, or criminal proceedings. The role of documentation and evidence submission in these processes is critical. For instance, under the procedural framework of the ICC, recognition of the right to participate in proceedings requires prior confirmation of victim status based on established criteria.

158. Revised Guidelines and/or (an) additional non-binding instruments could encourage member States to adopt clear, transparent procedures for granting victim status in both judicial and

non-judicial mechanisms, depending on their respective mandates. Member States could be encouraged to apply sensitivity and inclusivity in this context, as an unduly narrow definition of victimhood could have serious consequences – particularly in jurisdictions where victim recognition is a prerequisite for pursuing claims or accessing remedies.

v. Rights of Victims, Victim-centred Approach

159. Legal frameworks and processes, both judicial and non-judicial, should be designed with victims' needs in mind to ensure meaningful impact. Adopting a victim-centred approach at both national and international levels – namely placing victims at the core of justice efforts – can contribute to more effective justice and accountability mechanisms,²⁹⁰ and reduce the justice gap, where legal systems fail to deliver justice in ways that matter most to victims.²⁹¹

160. The preamble of the 2011 Guidelines acknowledges the right to an effective remedy for victims of human rights violations. The 2011 Guidelines make specific recommendations on safeguarding victims' legitimate interests, including their involvement in investigations and proceedings. They also provide that victims are entitled to receive information about their complaints, the progress of investigations and prosecutions, the execution of judicial decisions, and any measures taken concerning reparations. Additionally, they encourage states to provide information on the fate of persons in cases of suspicious deaths or enforced disappearances. Where domestic law permits, states are encouraged to offer legal assistance and advice to victims participating in proceedings. The Guidelines also highlight the need for protection measures to ensure victims' physical and psychological integrity.²⁹²

161. While the 2011 Guidelines offer a framework, recent developments in victims' rights and best practices reveal gaps in its coverage.

162. Since the adoption of the Guidelines, the EU has issued a directive establishing minimum standards on the rights, support, and protection of victims of crime. This directive reflects shared commitments to victims' rights,²⁹³ emphasising the need to consider victims' personal circumstances and specific needs, including those of victims of serious crimes²⁹⁴ – aspects not addressed by the 2011 Guidelines. In 2023, the European Commission proposed amendments to this directive to improve access to information, support and protection, participation in criminal proceedings, and access to compensation.²⁹⁵

163. In 2023, the Committee of Ministers adopted Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime.²⁹⁶ The recommendation calls upon member States to actively seek out and remove any barriers to access to justice for victims of crime. It also introduces the principles that victims of crime should have the right to be heard concerning any decision having a considerable impact on their interests and a right to remedy to support their rights in cases where they are not enforced. Additionally, the recommendation calls for victims of crime to be provided support in accessing their rights and services.

²⁹⁰ See [CDDH-ELI\(2025\)01](#), Discussion. See also [A/78/171](#), Note by the Secretary General, "Independence of judges and lawyers," 13 July 2023, para. 10.

²⁹¹ See "[Independence of judges and lawyers](#)," *op. cit.*, para. 8.

²⁹² See 2011 Guidelines, VII.

²⁹³ See [CDDH-ELI\(2024\)05](#), Discussion.

²⁹⁴ See Articles 4(2), 8(3), 9(2), 9(3)(b), 11(2) and 17(2) of the [Directive 2012/29/EU](#), *op. cit.*

²⁹⁵ See [Proposal for a Directive](#) of the European Parliament and of the Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, 12 July 2023.

²⁹⁶ See Committee of Ministers [Recommendation CM/Rec\(2023\)2](#) to member States on rights, services and support for victims of crime, adopted at the 1460th meeting of the Ministers' Deputies on 15 March 2023.

164. The Council of Europe Commissioner for Human Rights has encouraged member States to adopt victim-centred approaches on combating impunity for serious human rights violations.²⁹⁷

165. The UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has also encouraged expanding victims' roles and participation to the development of prosecutorial strategies, aiding in identifying the range of possible violations and in determining the range of possible charges. Their participation facilitates the prosecution of cumulative charges, where appropriate, thus reflecting the multidimensional nature of international crimes.²⁹⁸

166. There has also been progress in recognising victims' role in criminal justice procedures, both nationally and internationally. The ICC's jurisprudence affirms the important contributions of victims to fact-finding.²⁹⁹ As the first international tribunal allowing victim participation, it has adopted a victims' strategy developed from a rights-based perspective.³⁰⁰ The ICC's Chambers have consistently held that victims' participation must be effective, not merely symbolic. Given the complexity of ICC proceedings, victims have the right to legal representation, often grouped due to the large number of victims. To support participation, the ICC established the Office of Public Counsel for Victims, the first of its kind in international criminal law. The Extraordinary Chambers in the Courts of Cambodia (ECCC) also allowed victims to participate in proceedings as civil parties, granting a wide range of procedural rights. Victim participation thus affirms victims as right holders and acknowledges their critical role in justice processes.

167. Other International and European bodies increasingly adopt victim-centred approaches. The IIIM and the Register of Damage for Ukraine both implement such approaches based on principles such as inclusivity, participation, accessibility and security.³⁰¹

168. At domestic level, in civil law systems, victims often play an active role in criminal proceedings, whereas in common law systems, their role is more limited, usually confined to victim impact statements.³⁰² Since 2011, there have been calls for the adoption of victim-centred responses to serious human rights violations, including laws on victims protection, assistance and support.³⁰³ The UN has called upon states to ensure justice systems are "accessible to every person, user-friendly, non-discriminatory, fair and focused on solutions and remedies that address people's needs."³⁰⁴ Victims should have effective remedies for serious human rights violations, including "(a) equal and effective access to justice; (b) adequate, effective and prompt reparation for harm suffered; (c) access to relevant information concerning violations and reparation

²⁹⁷ See for instance, "[Memorandum on the Human Rights Consequences of the War in Ukraine](#)," *op. cit.*, paras. 77-79, recognising a "victim-centred approach" as one of the key principles for effective accountability for serious human rights violations. The Commissioner underscored that "[t]he interests of victims and their families should be the primary consideration guiding accountability efforts within all available justice mechanisms, from the start of investigations to ensuring proper reparations" and "[t]reating victims, their families, and witnesses of crimes with sensitivity and compassion, ensuring their protection and caring for their needs in the context of investigations should be another priority." See also "[Dealing with the past for a better future](#)," *op. cit.*, p. 91.

²⁹⁸ See [A/HRC/27/56](#), Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 27 August 2014, paras. 92-98. See also [A/HRC/34/62](#), Report of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 27 December 2016, paras. 49-52.

²⁹⁹ See [CDDH-ELI\(2025\)01](#), Key points made by Paolina Massidda.

³⁰⁰ See [ICC-ASP/11/38](#), Court's Revised strategy in relation to victims, 5 November 2012.

³⁰¹ See [CDDH-ELI\(2024\)12](#), Key points made by Robert Petit. See also [CDDH-ELI\(2025\)01](#), Key points made by Markiyani Kliuchkovskyi.

³⁰² See the European Union Agency for Fundamental Rights (FRA), [Member State approaches to victims: conceptualisation of victims and their role in criminal proceedings](#), 2014.

³⁰³ See also [The Prague Statement](#), *op. cit.*, p.2.

³⁰⁴ See [A/HRC/57/27](#), *op. cit.*, para. 20.

mechanisms.³⁰⁵ Also recognised are victims' rights to be provided with information in a language they understand and to interpretation and translation when participating in proceedings.³⁰⁶

169. External speakers invited to CDDH-ELI meetings have advocated for a victim-centred approach, calling on member States to uphold victims' rights to representation, participation and reparation.³⁰⁷ Revised Guidelines and/or (an) additional non-binding instrument(s) could assist in pursuing this objective.

170. Understanding victims' motivations for seeking justice is crucial. They aim to establish facts, identify perpetrators, seek accountability, and obtain reparations. Being informed and heard is also important.³⁰⁸

171. It is equally important to note that, in the Court's view, states should take general measures aiming to benefit all those who had been affected by devastating events, such as efforts to commemorate the grief of the victims and help communities to reconstruct themselves after such events.³⁰⁹

172. Victims of serious human rights violations should have equal and effective access to justice, regardless of who bears responsibility for the violation.³¹⁰ Barriers such as lack of information, lengthy procedures, high costs, or perceived bias prevent access. Legal aid can help bridge this gap.³¹¹ Revised Guidelines and/or (an) additional non-binding instrument(s) could strengthen provisions on legal assistance for victims at all stages of proceedings.³¹² They could also affirm victims' rights to effective remedies and appeals against decisions affecting their personal interests.³¹³ States could be encouraged to develop procedures enabling groups of victims of serious human rights violations to participate in domestic proceedings and seek collective reparations, similar to practices at the ICC.³¹⁴

173. Effective participation requires protective measures,³¹⁵ ensuring victims' dignity, privacy, and well-being, with special attention to age, gender, health, and the nature of the crimes, with special attention paid to sexual violence.³¹⁶ Victim and witness protection should be explicitly guaranteed to ensure their safety and participation.³¹⁷ This should be the case before, during, and after proceedings, and cover protection against unlawful interference with their privacy, freedom from intimidation and retaliation during and after proceedings, and appropriate assistance to ensure their safety, physical and psychological well-being and privacy, as well as those of their family.³¹⁸

³⁰⁵ See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, para. 11.

³⁰⁶ See Articles 3 and 7 of the [Directive 2012/29/EU](#), *op. cit.*. See also Committee of Ministers [Recommendation CM/Rec\(2023\)2](#), *op. cit.*, para. 6.1.

³⁰⁷ See [CDDH-ELI\(2024\)05](#), Key points made by Matt Cannock. See also [CDDH-ELI\(2024\)12](#), Discussions.

³⁰⁸ See [CDDH-ELI\(2025\)01](#), Key points made by Paolina Massidda.

³⁰⁹ See for instance, [Tagayeva and Others v. Russia](#), *op. cit.*, para. 626. See also the importance of general measures in the context of solving disappearances in a post-war context: [Zuban and Hamidovic v. Bosnia and Herzegovina](#), appl. nos. 7175/06 and 8710/06, 2 September 2014, paras. 30-35.

³¹⁰ See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principles II.3.(c) and VIII.12.

³¹¹ See [A/HRC/57/27](#), *op. cit.*, para. 19.

³¹² See [CDDH-ELI\(2025\)01](#), Key points made by Paolina Massidda.

³¹³ *Idem*.

³¹⁴ See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principle VIII.13.

³¹⁵ See [CDDH-ELI\(2024\)12](#), Key points made by Kate Vigneswaran. See also [CDDH-ELI\(2024\)05](#), Key points made by Matt Cannock.

³¹⁶ See [CDDH-ELI\(2025\)01](#), Key points made by Paolina Massidda.

³¹⁷ See [CDDH-ELI\(2024\)12](#), Key points made by Kate Vigneswaran.

³¹⁸ See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principles VI.10 and VIII.12.(b) and (c).

Tailored support and protection should be provided for victims with specific needs, including children, persons with disabilities, and marginalised groups.

174. Trauma-informed approaches should be integrated into investigations and judicial processes to prevent re-traumatisation in the course of the justice process, and focus on the needs of vulnerable groups. This has been adopted by bodies such as UNITAD.³¹⁹ To the extent possible, this should be included in domestic laws.³²⁰

175. Civil society organisations play a vital role in outreach and evidence collection. They are often the first interlocutors of victims of serious human rights violations.³²¹ Their partnerships with institutions should be strengthened to reflect this reality. A notable example is the International Accountability Platform for Belarus (IAPB), which brings together several independent non-governmental organisations³²², to collect, verify, and preserve evidence of violations of international law committed in Belarus on the basis of a survivor-centred and trauma-informed approach, with a view to supporting national jurisdictions or international accountability bodies in their investigation and prosecution of alleged perpetrators of these crimes. Similarly, the Register of Damage collaborates closely with civil society platforms to ensure stakeholders remain informed and to maximise outreach to potential claimants.³²³ The Office of the Prosecutor of the ICC also cooperates directly with civil society in investigations.³²⁴

176. In light of the above, revised Guidelines and/or (an) additional non-binding instrument(s) could encourage member States to adopt victim-centred approaches in their efforts to respond to serious human rights violations and combat impunity, including by encouraging member States to:

- adopt victim-centred approaches in accountability processes for serious human rights violations;
- ensure equal and effective access to justice, including dissemination of information on violations and reparation mechanisms;
- adopt legal aid schemes for victims of serious human rights violations;
- ensure victims can participate at all relevant stages of criminal proceedings, individually and/or collectively as appropriate;
- provide protection and assistance to victims (and witnesses) involved in proceedings, including by strengthening provisions for witness and victim protection programmes;
- offer multidisciplinary support services to victims of serious human rights violations, including psychological, medical and financial assistance;
- establish secure and effective communication channels with civil society organisations to facilitate collaboration in the collection of evidence related to serious human rights violations;
- apply trauma-informed approaches into investigations and judicial processes to prevent re-traumatisation; and
- adopt, where necessary, general measures aiming to benefit all those who had been affected by devastating events.

³¹⁹ See for instance, UNITAD, "[Trauma-Informed Investigations Field Guide](#)," 2021.

³²⁰ See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principle, VI.10.

³²¹ See [CDDH-ELI\(2024\)12](#), Key points made by Robert Petit. See also [CDDH-ELI\(2024\)05](#), Key points made by Matt Cannock; [CDDH-ELI\(2024\)12](#), Key points made by Matevz Pezdirc; [CDDH-ELI\(2025\)01](#), Key points made by Amélie Becquart.

³²² Namely, Human Rights Centre Viasna, International Committee for the Investigation of Torture in Belarus, and REDRESS, and its lead organisation, the Danish Institute against Torture (DIGNITY).

³²³ See [CDDH-ELI\(2025\)01](#), Key points made by Markiyany Kliuchkovskiy.

³²⁴ See [CDDH-ELI\(2025\)01](#), Discussion.

vi. Reparations, Compensation Measures and Mechanisms

177. Victims view justice as restorative, not only on an individual level but also within families, societies, and communities.³²⁵ Reparations are a cornerstone of justice for victims of serious human rights violations, offering acknowledgment of the harm suffered and a pathway to restore dignity and redress violations. Yet according to a 2014 report by the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, most victims of gross human rights violations still did not receive any reparation for the harm they have suffered.³²⁶

178. The 2011 Guidelines encourage states to take all appropriate measures to establish accessible and effective mechanisms that ensure victims of serious human rights violations receive prompt and adequate reparation. These measures include rehabilitation, compensation, satisfaction, restitution and guarantees of non-repetition.³²⁷ The 2011 Guidelines Reference texts draw upon the UN Principles and Guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law, a key milestone in articulating universally recognised rights.³²⁸ They also reference the 1983 European Convention on the Compensation of Victims of Violent Crime (ETS No. 116),³²⁹ and the 2006 Committee of Ministers Recommendation on assistance to crime victims.³³⁰

179. The five forms of reparation, which are briefly mentioned in the 2011 Guidelines, are:

- (i) Restitution – aims to restore whenever possible, the victims to their original situation before the violation, including restoration of liberty, enjoyment of human rights, identity, family life, citizenship, return to one’s place of residence, restoration of employment and return of property;
- (ii) Compensation – should cover economically assessable damage, as appropriate and proportional to the gravity of the violation, including physical or mental harm, lost opportunities, material damages, loss of earnings, moral damage, and costs incurred for legal and medical assistance;
- (iii) Rehabilitation – includes medical and psychological care and legal and social services;
- (iv) Satisfaction – includes where applicable effective measures aimed at the cessation of continuing violations, verification of the facts, full and public disclosure of the truth, the search for the disappeared, for the identities of abducted children, and for the bodies of those killed, assistance in the recovery, identification and reburial of the bodies, official declarations and public apologies, including acknowledgment of the facts and acceptance of responsibility, commemorations, tributes to the victims, and inclusion of historical accounts in education; and
- (v) Guarantees of non-repetition – includes contribution to the prevention, while ensuring effective civilian control of military and security forces, judicial independence, protection of professionals and human rights defenders, education and training in human rights and humanitarian law, ethical norms, and legal reforms.³³¹

³²⁵ See [CDDH-ELI\(2025\)01](#), Key points made by Paolina Massidda.

³²⁶ See [A/69/518](#), Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 14 October 2014, para. 6.

³²⁷ See 2011 Guidelines, XVI.

³²⁸ See [A/69/518](#), *op. cit.*, para. 18.

³²⁹ The [European Convention on the Compensation of Victims of Violent Crime](#) (STE No. 116) entered into force in 1988 – to date, it has been ratified by 26 Council of Europe member States (see the [ratification chart](#) on the website of the Treaty Office of the Council of Europe).

³³⁰ See [Recommendation Rec\(2006\)8](#) of the Committee of Ministers to member States on assistance to crime victims, adopted at the 967th meeting of the Ministers’ Deputies on 14 June 2006.

³³¹ See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principle IX.18-23. See also “[Post-war Justice and durable peace in the former Yugoslavia](#),” *op. cit.*, pp. 19-30.

180. Reparation mechanisms must be adequate, full, effective and prompt, addressing both individual and collective needs while contributing to accountability, reconciliation, and prevention of future violations. Reparations should also be proportional to the gravity of the violations and the harm suffered.³³²

181. The 2001 Draft articles on Responsibility of States for Internationally Wrongful Acts provide that a responsible state is obliged to make full reparation for injury caused by a wrongful act. This includes restitution, compensation, and satisfaction.³³³ The Draft articles also refer to guarantees of non-repetition.³³⁴ Over time, international human rights law has increasingly recognised that victims of human rights violations have the right to seek redress and reparation through national justice mechanisms and where necessary, through international forums.³³⁵ This right is now enshrined in numerous international human rights instruments.³³⁶

182. Responsible states have a duty to provide reparations to individuals whose rights under the ICCPR have been violated.³³⁷ European and international courts have developed jurisprudence confirming the right to reparation, considering both individual and collective claims from periods of mass violations. The state's obligation extends beyond financial compensation to include public investigations and prosecutions, legal reform, restitution of liberty or property, access to medical care, and public apology or acknowledgement of responsibility.³³⁸

183. The 1983 European Convention on the Compensation of Victims of Violent Crimes, which is listed as one of the reference texts under Guideline XVI (Reparation), provides compensation to victims who have suffered serious bodily injury or health impairment due to intentional violent crimes, including dependants of deceased persons.³³⁹ It has been ratified by 26 Council of Europe member States.

184. The 2006 Committee of Ministers' Recommendation on assistance to crime victims has since been updated and replaced by Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime.³⁴⁰ The 2023 Recommendation calls on member States to ensure victims are informed about compensation procedures, have the right to be heard in compensation-related decisions during criminal proceedings, and can access state compensation.³⁴¹ However, it does not cover other forms of reparations such as restitution, rehabilitation, satisfaction, and guarantees of non-repetition.

185. In 2024, PACE adopted a Resolution on reparation and reconciliation processes in the context of conflicts between Council of Europe member States, calling *inter alia* for the establishment of a mediation process to facilitate reparations and remedies, including in relation to

³³² See [UN Basic Principles and Guidelines on the Right to a Remedy and Reparation](#), *op. cit.*, Principle IX.15.

³³³ Articles 31 and 34-37 of the [Responsibility of States for Internationally Wrongful Acts](#), adopted by the Commission at its 53rd session, 2001.

³³⁴ *Ibid.*, Articles 30 and 48(2)(a).

³³⁵ See [A/69/518](#), *op. cit.*, para. 14.

³³⁶ See for examples, Article 8 of the [Universal Declaration of Human Rights](#); Article 2 of the [ICCPR](#); Article 6 of the [International Convention on the Elimination of All Forms of Racial Discrimination](#); Article 14 of the [Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#); Article 39 of the [Convention on the Rights of the Child](#).

³³⁷ See [CCPR/C/21/Rev.1/Add.13](#), General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, adopted on 29 March 2004.

³³⁸ See [A/69/518](#), *op. cit.*, para. 17. See also "[Memorandum on Human Rights Elements for Peace in Ukraine](#)," *op. cit.*, paras. 20-25.

³³⁹ Articles 1 and 2 of the [European Convention on the Compensation of Victims of Violent Crimes](#), *op. cit.*

³⁴⁰ Committee of Ministers [Recommendation CM/Rec\(2023\)2](#), *op. cit.*

³⁴¹ *Ibid.*, Articles 6 1.j., 10.5.e. and f., 13 and 14.

interstate cases before the Court.³⁴² In response, the Committee of Ministers recalled that, in the framework of such proceedings, it is for the Court alone to determine the appropriate amount of just satisfaction for violations of the Convention and the Protocols, while also noting the potential of the Court's friendly settlement procedure under Article 39 of the Convention as a means to foster dialogue and facilitate remedies between State Parties.³⁴³

186. The UN Special Rapporteur noted in a 2014 report that reparation programmes play a key role after mass violations. They not only recognise victims as right-holders, but also foster trust in institutions, reinforce the rule of law, and promote reconciliation.³⁴⁴ The UN Basic Principles and Guidelines on the Right to a Remedy and Reparation of 2005 call on member States to ensure that domestic laws provide effective mechanisms for enforcing reparation judgments³⁴⁵ and that national reparations programmes should be in place to provide assistance to victims when perpetrators are unable or unwilling to fulfil their obligations.³⁴⁶

187. At the international level, the ICC provides for both individual and collective reparations. The ICC recognises moral, physical, and psychological harm, including harm suffered by children born of sexual violence. In 2004, the Assembly of States Parties established a Trust Fund for Victims,³⁴⁷ an independent body supporting and implementing programmes that address harms resulting from international crimes. The Trust Fund plays a key role in implementing reparations when convicted persons lack financial resources.

188. Other regional and international mechanisms have also offered reparations to victims of serious human rights violations.³⁴⁸ In 2022, the UN General Assembly recognised that the Russian Federation must be held to account for any violations of international law in or against Ukraine, and must bear the legal consequences of all of its internationally wrongful acts, including making reparation for injury, including any damage, caused by such acts. It also recognised the need to establish an international reparation mechanism for damage, loss or injury arising from the internationally wrongful acts of the Russian Federation in or against Ukraine.³⁴⁹ The Register of Damage for Ukraine, established under the auspices of the Council of Europe, marks a significant development in ensuring justice through compensation and reparation for victims of serious human rights violations committed in Ukraine since February 2022, particularly in the absence of other functioning accountability mechanisms.³⁵⁰ The Register documents damage resulting from Russia's aggression against Ukraine, and lays the groundwork for a future compensation claims mechanism. The Council of Europe is actively supporting the development of the compensation mechanism. To that effect, on 3 September 2025, the Committee of Ministers adopted the terms of reference of the Ad-hoc Committee on the Establishment of an international Claims Commission for Ukraine (CAHEC).³⁵¹ The negotiations in the CAHEC were finalised on 12 September and, on 22 October 2025, the Committee of Ministers adopted a draft Convention establishing an international Claims Commission for Ukraine. As any open convention of the Council of Europe,

³⁴² See PACE [Resolution 2559 \(2024\)](#), "Reparation and reconciliation processes to overcome past conflicts and build a common peaceful future: the question of just and equal redress," adopted on 26 June 2024.

³⁴³ See Committee of Ministers [Reply to Recommendation 2281 \(2024\)](#), adopted at the 1518th meeting of the Ministers' Deputies on 5 February 2025, paras. 7-8.

³⁴⁴ See [A/69/518](#), *op. cit.*, para. 9.

³⁴⁵ See [A/69/518](#), *op. cit.*, Principle IX.17.

³⁴⁶ *Ibid.*, Principle IX.16.

³⁴⁷ See more about the [Trust Fund for Victims](#).

³⁴⁸ For instance, the United Nations Compensation Commission (UNCC) established by the UN Security Council in 1991 following Iraq's invasion of Kuwait.

³⁴⁹ See [A/Res/ES-11/5](#), *op. cit.*, paras. 2 and 3.

³⁵⁰ See [CDDH-ELI\(2025\)01](#), Key points made by Markiyan Kliuchkovskiy.

³⁵¹ See [CM\(2025\)31-final](#), Terms of reference of the Ad-hoc Committee on the Establishment of an international Claims Commission for Ukraine (CAHEC), adopted at the 1535th meeting of the Ministers' Deputies on 3 September 2025.

non-Council of Europe member States can become parties, ensuring the objective of a broad international participation in the Claims Commission.³⁵² To reinforce the fight against impunity, member States could be encouraged to cooperate with the Register and future mechanisms.³⁵³

189. Noting the general legal principle precluding the retrospective application of international law in matters concerning State responsibility, the CDDH considers it necessary to address in greater detail the issue of reparations in revised Guidelines and/or (an) additional non-binding instrument(s), which could recommend that member States establish or maintain independent, effective, and well-resourced national reparation mechanisms ensuring victims of serious human rights violations have access to all recognised forms of reparation as set out in paragraph 179 of this study. In particular, member States could be encouraged to:

- create procedures for victims of serious human rights violations to have access to reparation related to acts or omissions attributed to the state or another party;
- ensure victims of serious human rights violations can participate meaningfully in reparations processes, which should prioritise their needs, dignity and participation, and be transparent and efficient;
- enforce domestic and international judgments on reparation and, where applicable, recognise foreign judgments subject to domestic and international law;
- support regional and international bodies that facilitate access to reparation, such as the Register of Damage for Ukraine, the international Claims Commission for Ukraine and, for ICC States parties, the Trust Fund for Victims; and
- encourage Council of Europe member States to sign and ratify, where appropriate, the European Convention on the Compensation of Victims of Violent Crimes and the draft Convention establishing an international Claims Commission for Ukraine.

5. Cluster 5: Other Issues

190. The CDDH identified other issues to be addressed within one cluster.

i. Impact of Situations of Crisis on the Fight against Impunity

191. The 2011 Guidelines do not explicitly address the effects of crisis situations on efforts to combat impunity, nor do they highlight the necessity of ensuring the continuity of justice and accountability mechanisms during such times.

192. Human rights and the rule of law must be maintained and respected during situations of crisis, and measures adopted in response to this crisis must not result in impunity for human rights violations. Whilst there is no established legal definition of a “situation of crisis,” one may arise from armed conflict, public health emergencies, natural disasters, or internal disorder.³⁵⁴

193. In May 2024, the Committee of Ministers adopted a Toolkit on Human Rights Impact Assessment of the measures taken by the State in Situations of Crisis.³⁵⁵ This initiative responded

³⁵² See [CM\(2025\)139-final](#), Draft Convention establishing an International Claims Commission for Ukraine, adopted at the 1541st meeting on 22 October 2025.

³⁵³ See [CDDH-ELI\(2025\)01](#), Key points made by Markiyan Kliuchkovskiy.

³⁵⁴ For the purpose of [Recommendation CM/Rec\(2024\)7](#) (see below), a situation of crisis was defined as “any situation which necessitates a response by the State that may involve alterations in the distribution of powers and functions at State level as well as the adoption of measures outside the regular legal framework, whether or not such measures are adopted under a declared state of emergency or similar legal regime.” See [Explanatory Memorandum to Recommendation CM/Rec\(2024\)7](#), para. 2.

³⁵⁵ See [Toolkit for human rights impact assessment of the measures taken by the State in situations of crisis](#), adopted at the 1491st meeting by the Ministers’ Deputies on 6 March 2024.

to the challenges faced by member States due to the Covid-19 pandemic, whilst being intended for application in any situation of crisis, including for example natural disasters, wars, energy crises, and civil unrest. The Toolkit emphasises that human rights remain applicable during such times and provides practical guidance to help states strike a balance between competing interests through a human rights-based approach. In particular, it offers guidance on how to conduct a human rights impact assessment in situations where extremely rapid responses may be necessary. Other Council of Europe bodies published specific guidance during and after the Covid-19 pandemic, including regarding children, women, and persons deprived of liberty,³⁵⁶ whose rights must be respected and protected at all times.

194. At the end of 2024, the Committee of Ministers adopted Recommendation CM/Rec(2024)7 on the effective protection of human rights in situations of crisis. This Recommendation calls for the incorporation of relevant principles into domestic law, as appropriate.³⁵⁷ The Recommendation affirms that emergency powers should only be used in exceptional circumstances and must comply with human rights obligations, upholding the overarching principles of the rule of law, legality, necessity, proportionality, temporariness, and foreseeability.³⁵⁸

195. In recent years, UN human rights mechanisms have expressed concern regarding declarations of states of emergencies by national authorities that suspend rights without meeting the requirements of the ICCPR concerning derogations.³⁵⁹

196. The CDDH considers it essential to emphasise the importance of upholding human rights and the rule of law during situations of crisis. Member States could be reminded that measures taken in response to crises must not lead to impunity for serious human rights violations, and that victims must have continuing access to effective remedies. The CDDH also notes that the 2011 Guidelines do not address the challenges posed by disruptions to judicial systems and investigative mechanisms during situations of crisis. Specific recommendations have been provided to guide member States in this regard.³⁶⁰

197. Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States:

- clearly outline their responsibilities to uphold justice and accountability during situations of crisis;

³⁵⁶ See Group of Experts on Action against Trafficking in Human Beings (GRETA), [“In time of emergency the rights and safety of trafficking victims must be respected and protected,”](#) 2 April 2020. See also CDENF, [“The Covid-19 pandemic and children: Challenges, responses and policy implications,”](#) updated on 12 March 2021; CDENF, [“Covid-19 pandemic responses: Lessons learnt from management and adaptation to ensure that children are treated as rights holders during the pandemic and beyond,”](#) September 2020. See also [Statement by the President of GREVIO, Marceline Naudi, on the need to uphold the standards of the Istanbul Convention in times of a pandemic,](#) 24 March 2020; PACE, [“Covid-19: ‘Put safety of women at the heart of all measures to tackle coronavirus’ says Rapporteur,”](#) 23 March 2020; Committee of the Parties to the Istanbul Convention, [“The standards of the Istanbul Convention apply at all times,”](#) 20 April 2020; CPT, [“Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease \(Covid-19\) pandemic,”](#) 20 March 2020.

³⁵⁷ See Recommendation [CM/Rec\(2024\)7](#) of the Committee of Ministers to member States on the effective protection of human rights in situations of crisis, adopted at the 1512th meeting of the Ministers’ Deputies on 19 November 2024, para. 2.

³⁵⁸ *Ibid.*, II.5.

³⁵⁹ See for instance, [CCPR/C/PER/CO/6](#), Concluding observations on the sixth periodic report of Peru, 5 April 2023, para. 12, where the Human Rights Committee raised concerns about declarations of state of emergency and derogation from Covenant rights, including in connection with social protests. See also [CCPR/C/VEN/CO/5](#), Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela, 28 November 2023, para. 13, raising concerns about prolonged state of economic emergency and reports of serious human rights violations committed during states of emergency in response to the coronavirus disease and the suspension of the right to peaceful assembly during the state of economic emergency.

³⁶⁰ See Recommendation [CM/Rec\(2024\)7](#), *op. cit.* See also CEPEJ Declaration, [“Lessons learnt and challenges faced by the judiciary during and after the Covid-19 pandemic,”](#) 10 June 2020.

- ensure the continuity of justice and accountability mechanisms during situations of crisis, including procedures for reporting serious human rights violations and handling complaints, and contingency plans to preserve judicial and investigative capacities;
- guarantee that victims of human rights violations retain access to effective remedies during situations of crisis, with particular attention to vulnerable groups who may be disproportionately affected;
- provide training to judicial and law enforcement personnel to respond effectively to human rights violations in situations of crisis; and
- support and safeguard the role of national human rights institutions and civil society organisations in situations of crisis, recognising their vital role in identifying and documenting violations, especially when state mechanisms are disrupted.

ii. Standards Applying to Non-judicial Mechanisms

198. The 2011 Guidelines call on states to consider establishing non-judicial mechanisms, citing parliamentary inquiries, ombudspersons, independent commissions, and mediation as complementary procedures to judicial remedies guaranteed under the Convention.³⁶¹ In addition, the Guidelines encourage states to take all appropriate measures to establish accessible and effective mechanisms through which victims can receive reparation for the harm suffered.³⁶²

199. Non-judicial mechanisms are processes or institutions designed to address serious human rights violations without relying solely on formal judicial proceedings. While they do not impose criminal penalties, they play a crucial role in uncovering the truth, acknowledging harm, and recommending measures to promote accountability and provide reparation for victims³⁶³ (see also above, Cluster 4, vi. Reparation, Compensation Measures and Mechanisms).

200. Non-judicial mechanisms are particularly important in contexts where judicial systems may be overwhelmed, compromised, or inaccessible – such as during conflict, post-conflict, or transitional periods. These mechanisms are most effective when they complement, rather than replace, formal justice processes. Their focus is often on truth-telling, reconciliation, and addressing systemic issues contributing to impunity. Ensuring victims' consultation and participation in transitional justice measures is essential, not only to facilitate healing but also to influence the design of policies, the selection of commissioners, the formulation of recommendations, and the development of follow-up mechanisms and initiatives.³⁶⁴

201. In 2023, the Council of Europe Commissioner for Human Rights addressed the need for justice and reconciliation in response to past atrocities committed in the region of the former Yugoslavia. The Commissioner's recommendations included placing victims and survivors at the centre of transitional justice efforts – particularly through truth-seeking processes and effective consultation with, and participation of, victims.³⁶⁵

³⁶¹ 2011 Guidelines, XV.

³⁶² 2011 Guidelines, XVI.

³⁶³ See "[Memorandum on Human Rights Elements for Peace in Ukraine](#)," *op. cit.*, para. 19, in which the Commissioner observed that criminal justice alone is not sufficient and that any peace talks could pave the way for further transitional justice initiatives and mechanisms building notably on the right to truth. Beyond reparations, this could also mean drawing on non-judicial measures, such as truth telling, memorialisation, reconciliation, and guarantees of non-recurrence. These measures should be adequate to the context of an inter-state conflict as a means of addressing the wartime legacy of gross violations and abuses of human rights and serious violations of international humanitarian law. See also "[Post-war Justice and durable peace in the former Yugoslavia](#)," *op. cit.*, pp. 31-32 and 34-38.

³⁶⁴ [A/HRC/34/62](#), *op. cit.*, paras. 36-38.

³⁶⁵ See "[Dealing with the past for a better future](#)," *op. cit.*, pp. 86-91.

202. In the same year, the UN Secretary-General issued a Guidance Note on transitional justice as a strategic tool for people, prevention and peace.³⁶⁶ According to the UN, transitional justice includes both judicial and non-judicial mechanisms, such as individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. This wider notion of justice has been advanced in the field of transitional justice, in which further elements of redress complement and reinforce processes of criminal accountability.³⁶⁷ The UN Secretary-General Guidance promotes transitional justice as a pragmatic, human rights-based policy instrument, relevant to peacebuilding, accountability, and human rights protection. It outlines key features of the UN approach to transitional justice, namely:

- normative – grounded in international norms and standards;
- strategic – context-sensitive and long-term in perspective;
- inclusive – empowering victims and involving marginalised groups;
- gender-responsive – incorporating a gender lens and promoting women’s leadership; and
- transformative – aiming to address structural causes of conflict and injustice and deliver tangible change.

203. In light of growing recognition of the role of non-judicial mechanisms in addressing impunity for serious human rights violations, the CDDH considers that the 2011 Guidelines could be updated to address key issues. Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States:

- consider establishing other complementary non-judicial mechanisms on top of parliamentary inquiries, ombudspersons, independent commissions, and mediation already mentioned in the Guidelines;
- engage in meaningful consultation with victims during the design of non-judicial mechanisms addressing serious human rights violations;
- adopt a holistic approach to establishing complementary non-judicial processes, ensuring time-lines and adaptability to the specific conflict, context, or societal need;
- ensure that non-judicial mechanisms are independent and impartial and have clear mandates and sufficient resources to operate effectively;
- promote transparency throughout non-judicial processes and outcomes to foster open trust and accountability;
- ensure inclusive victim participation, particularly incorporating the perspectives of marginalised and vulnerable groups, and applying a gender-sensitive approach;
- enhance the role of national human rights institutions and civil society organisations in the design, implementation, and follow-up of non-judicial processes;³⁶⁸
- ensure the effective implementation of recommendations and findings of non-judicial mechanisms, so they contribute meaningfully to the fight against impunity and the pursuit of justice for victims;
- establish follow-up and monitoring frameworks to assess the implementation of recommendations from non-judicial mechanisms and ensure long-term accountability; and
- promote regional and international cooperation, including support for non-judicial mechanisms such as the Register of Damage in Ukraine and the international Claims Commission for Ukraine, and encourage collaboration in the design and implementation of similar mechanisms (see also recommendation in Cluster 4, vi. Reparation, Compensation Measures and Mechanisms, paragraph 189 of this study).

³⁶⁶ See UN Secretary-General [Guidance Note on Transitional Justice](#), October 2023.

³⁶⁷ *Ibid.*, p. 2.

³⁶⁸ See “Memorandum following the Commissioner’s mission to Kosovo from 30 May to 3 June 2022,” *op. cit.*, para. 19, emphasising the importance of consulting civil society.

iii. Education and Awareness-raising

204. The 2011 Guidelines emphasise the need to make relevant authorities aware of their obligations to prevent impunity³⁶⁹ and encourage individuals who are aware of serious human rights violation to report them.³⁷⁰

205. In 2022, the UN General Assembly adopted a Resolution on the role of prevention in the promotion and protection of human rights and to ensure accountability and justice.³⁷¹ The resolution calls on states to promote supporting and enabling environments for the prevention of human rights violations and abuses by, *inter alia*, ratifying and fully implementing international human rights conventions, enhancing and developing good governance, democratic systems and the rule of law and accountability, adopting policies to ensure the enjoyment of all human rights, addressing violence, all forms of discrimination, inequality and poverty, promoting freedom of opinion and expression, promoting and protecting a safe and enabling environment for human rights defenders and journalists, and promoting human rights education and training.³⁷² These aspects could be strengthened in revised Guidelines and/or (an) additional non-binding instrument(s) by including specific measures and recommendations for incorporating education and awareness-raising as core tools in the fight against impunity.

206. Education and awareness-raising are essential components for promoting accountability and preventing the recurrence of serious human rights violations. A more comprehensive framework is needed – one focused on educational initiatives and public awareness campaigns aimed at fostering a culture of human rights and justice.

207. Education equips individuals with the knowledge to understand justice, accountability, and human rights, while awareness-raising creates public recognition of these issues, mobilises societal support, ensures accountability, and helps prevent future violations. By informing citizens, civil society, and key stakeholders about the importance of combating impunity, awareness-raising fosters a culture of justice, transparency, and respect for human rights. Education on justice and accountability for core international crimes is particularly important to improve public understanding, especially in affected communities.³⁷³ Communication efforts – such as judicial outreach – can also help galvanise public support.³⁷⁴

208. The Council of Europe has worked extensively on history education, promoting education on past atrocities to foster mutual understanding, respect for human rights, and democratic citizenship. In 2010, the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education was adopted through Recommendation CM/Rec(2010)7, providing general recommendations to member States although not explicitly related to areas such as violations of serious human rights violations or peace education.³⁷⁵ The Education for Democratic Citizenship and Human Rights Education (EDC/HRE) programme develops initiatives to help young people understand human rights, democracy, and the rule of law. The European Youth Foundation, a fund established by the Council of Europe, provides financial and educational support for European youth activities, including projects focused on raising awareness of past

³⁶⁹ 2011 Guidelines, III.3.

³⁷⁰ 2011 Guidelines, III.5.

³⁷¹ UN [General Assembly Resolution 5114\(2022\)](#), *op. cit.*

³⁷² *Ibid.*, para. 3.

³⁷³ See also [The Prague Statement](#), *op. cit.*, p. 3.

³⁷⁴ *Idem.*

³⁷⁵ See Recommendation [CM/Rec\(2010\)7](#) of the Committee of Ministers on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, adopted at the 120th session on 11 May 2010. See also Recommendation [CM/Rec\(2011\)4](#) of the Committee of Ministers to member States on education for global interdependence and solidarity, adopted at the 1113th meeting of the Ministers' Deputies on 5 May 2011, para. 1.

atrocities and the consequences of impunity. These initiatives could form the basis for revised Guidelines and/or (an) additional non-binding instrument(s) to explicitly encourage the integration of education on past human rights violations into national curricula –particularly in post-conflict or transitional societies.

209. The UN Special Rapporteurs in the field of cultural rights and on the right to education have both recommended the adoption of a multi-perspective approach to teaching about past atrocities, emphasising the need for critical thinking, empathy, and human rights education.³⁷⁶ These recommendations could be directly incorporated into revised Guidelines and/or (an) additional non-binding instrument(s) to ensure that history education on human rights violations fosters understanding, empathy, and prevention of future abuses.

210. In 2023, a report by the Council of Europe Commissioner for Human Rights on the former Yugoslavia underlined the importance of educational reforms in preventing the recurrence of serious human rights violations. Specific measures include promoting acceptance of cultural, social, religious and other differences, memorialisation efforts to honour the victims and promote peace, justice and reconciliation, investment in history teaching, and the preservation and accessibility of archives to support processes of dealing with the past.³⁷⁷ On this last aspect, the Parliamentary Assembly (PACE) recently adopted a resolution on the right to freedom of information and access to historical documents.³⁷⁸ In particular, PACE stressed that “[i]nformation about serious violations of human rights or humanitarian law and crimes committed by State agents should not be withheld on national security grounds in any circumstances.”³⁷⁹

211. The CDDH considers that there is a need to better address the educational and awareness-raising aspects in revised Guidelines and/or (an) additional non-binding instrument(s), which could include the following recommendations:

- promote, where appropriate, reform of educational systems to integrate memory education and historical justice initiatives, particularly in post-conflict and transitional contexts;
- utilise public awareness campaigns, social media platforms, and online tools, collaborating with civil society to amplify their impact;
- develop targeted awareness campaigns for law enforcement, judicial authorities, and government officials to increase their understanding of their roles in preventing impunity and supporting accountability;
- promote the use of memorials and commemorative events as part of public education efforts;
- collaborate actively with national human rights institutions and civil society organisations in designing and delivering education and awareness-raising programmes; and
- ensure the preservation and accessibility of archives related to serious human rights violations, and integrate their use in history education and memorialisation initiatives.

iv. Targeted Sanctions

212. Targeted sanctions include measures such as economic restrictions, account freezes, travel bans, and visa prohibitions.³⁸⁰ They have been increasingly used against individuals and entities reasonably believed to be responsible for or associated with serious human rights

³⁷⁶ See [A/68/296](#), Report of the UN Special Rapporteur in the field of cultural rights, 9 August 2013, paras. 7 and 88(a). See also [A/74/243](#), Report of the UN Special Rapporteur on the right to education, 29 July 2019, paras. 68(e) and 88.

³⁷⁷ See “[Dealing with the past for a better future](#),” *op. cit.*, pp. 91-99.

³⁷⁸ See PACE [Resolution 2535 \(2024\)](#), “The right to freedom of information: ensuring access to historical documents,” adopted on 7 March 2024. See also [Comments adopted by the CDDH on Recommendations of the Parliamentary Assembly 2272\(2024\), 2275\(2024\) and 2276\(2024\)](#), 3 July 2024.

³⁷⁹ PACE [Resolution 2535 \(2024\)](#), *op. cit.*, para. 4.

³⁸⁰ See [CDDH-ELI\(2024\)03](#), paras. 32-34.

violations, particularly when such individuals enjoy impunity due to political circumstances or corrupt practices. Recently, they have been applied at national and international levels, particularly through the EU framework, in the context of Russia's war of aggression against Ukraine.

213. The 2011 Guidelines do not refer to targeted sanctions against individuals or entities believed to be responsible or associated with serious human rights violations. However, they can still play a meaningful role in promoting accountability and reinforcing the fight against impunity for serious human rights violations. Depending on the specific circumstances, listing may have a tangible impact or serve a symbolic function, signalling the international community's condemnation of serious human rights violations.

214. Since 2014, PACE has called on Council of Europe member and observer States to consider adopting targeted sanctions regimes against individuals reasonably believed to be responsible for serious human rights violations who benefit from impunity.³⁸¹ Specific calls for sanctions were made in relation to the deaths of Boris Nemtsov and Alexei Navalny.³⁸²

215. PACE has also emphasised that procedural and substantive standards must be guaranteed to ensure the credibility and effectiveness of targeted sanctions. These include:

- minimum procedural standards under the rule of law, such as the right to be promptly notified and fully informed of the allegations, the right to be heard and to be able to defend himself or herself, the right to have the decision reviewed by an independent and impartial body, and the right to compensation for any violations of rights;
- a clear definition of the grounds for imposing sanctions, supported by relevant evidence;
- a time-limited "blacklisting" procedure; and
- the availability of remedies and immediate implementation of decisions affecting the status of listed individuals or entities.³⁸³

216. On the interaction between sanction measures and judicial guarantees, the Court has found violations of the right to private life and the right to an effective remedy in relation to the implementation of the sanctions regime put in place by Resolutions of the UN Security Council (UNSC).³⁸⁴ The Court emphasised that member States remain obliged to protect human rights when implementing UNSC resolutions. The Court held that there is a presumption that UNSC resolutions do not create obligations that are incompatible with member States' human rights obligations, and that any ambiguity in such resolutions must be interpreted in a manner that avoids conflict with Convention rights.³⁸⁵ In later case-law, the Court stressed that, given the serious consequences of targeted sanctions, guarantees and protection mechanisms must be put in place to avoid arbitrariness – particularly through access to judicial scrutiny.³⁸⁶

217. In the EU, the Global Human Rights Sanctions Regime, established in 2020,³⁸⁷ contributes to the fight against impunity. It imposes administrative sanctions against individuals, entities, and

³⁸¹ PACE [Resolution 2252 \(2019\)](#), "Sergei Magnitsky and beyond – fighting impunity by targeted sanctions," adopted on 22 January 2019, para. 13. See also PACE [Resolution 1966 \(2014\)](#), "Refusing impunity for the killers of Sergei Magnitsky," adopted on 28 January 2014, para. 18.

³⁸² PACE [Resolution 2297 \(2019\)](#), "Shedding light on the murder of Boris Nemtsov," adopted on 27 June 2019, paras. 10 and 12; PACE [Resolution 2540 \(2024\)](#), "Alexei Navalny's death and the need to counter Vladimir Putin's totalitarian regime and its war on democracy," adopted on 17 April 2024, para. 11.

³⁸³ See PACE [Resolution 1597 \(2008\)](#), "United Nations Security Council and European Union blacklists," adopted on 23 January 2008, para. 5.

³⁸⁴ [Nada v. Switzerland](#) [GC], appl. no. 10593/08, 12 September 2012.

³⁸⁵ [Al-Jedda v. the United Kingdom](#) [GC], appl. no. 27021/08, 7 July 2011, para. 102.

³⁸⁶ [Al-Dulimi and Montana Management Inc. v. Switzerland](#) [GC], appl. no. 5809/08, 21 June 2016, para. 146.

³⁸⁷ [Council Regulation \(EU\) 2020/1998](#) of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, and [Council Decision \(CFSP\) 2020/1999](#) of 7 December 2020 concerning restrictive

bodies responsible for, involved in, or associated with serious human rights violations and abuses, regardless of their geographic location. Measures include travel bans, asset freezes, and restrictions on EU persons and entities from making funds available to those listed.³⁸⁸

218. In the context of the Russian Federation's war of aggression against Ukraine, in March 2022, the European Commission set up the Freeze and Seize Task Force, with the aim to ensure a more effective implementation of EU restrictive measures, especially asset freezes.³⁸⁹

III. Conclusions and Recommendations

219. The CDDH recalls its mandate to prepare a study on the need for and feasibility of (an) additional non-binding instrument(s) to complement the 2011 Guidelines on the eradication of impunity for serious human rights violations. It interpreted its terms of reference as encompassing the possibility of updating or revising the 2011 Guidelines, should this prove a more appropriate means of addressing the challenges identified. Accordingly, the CDDH examined both the option of revising the 2011 Guidelines and the possibility of adopting one or more new non-binding instruments.

220. The CDDH underlines that the issue of impunity remains more pressing than ever. In his 2025 report "Towards a New Democratic Pact for Europe," the Secretary General warned that "rising impunity" threatens to reverse decades of progress in human rights and the rule of law.³⁹⁰ This concern is particularly relevant in the light of ongoing conflicts, including in Europe, which continue to generate serious human rights violations and highlight the urgency of ensuring accountability. In this connection, the CDDH recalls the commitment expressed by the Heads of State and Government in the Reykjavík Declaration to "ensure comprehensive accountability in the context of the Russian Federation's aggression against Ukraine,"³⁹¹ including by "fighting against the impunity of perpetrators of crimes committed against children [...] by continuing our support for international and national jurisdictions investigating these crimes."³⁹²

221. In the course of this study, the CDDH examined a list of issues relevant to its work, notably issues related to the scope of the Guidelines and definitions (Cluster 1), issues related to cooperation (Cluster 2), issues related to criminal law (Cluster 3), issues related to the rights of victims (Cluster 4), and other issues (Cluster 5).³⁹³ On the basis of the analysis undertaken, the CDDH considers that the 2011 Guidelines remain a valuable baseline instrument. However, developments in international and regional standards, as well as in member States practice, require their revision to maintain relevance and effectiveness.

222. The CDDH recognises that the inclusion of certain issues may risk disturbing the balance of the instrument. In such cases, annexes to the Guidelines remain the preferred solution. Where

measures against serious human rights violations and abuses, establishing a framework for targeted restrictive measures to address serious human rights violations and abuses worldwide.

³⁸⁸ [European Parliament Resolution](#) of 14 March 2019 on "A European human rights violations sanctions regime," paras. 3, 5, and 12.

³⁸⁹ With the support of the Seize and Freeze Task Force, the EU member States have to date frozen more than €28 billion of private assets belonging to Russian and Belarusian oligarchs and companies. See European Commission, "[Holding Russia accountable](#)."

³⁹⁰ See Report of the Secretary General of the Council of Europe, "[Towards a New Democratic Pact for Europe](#)," 12 May 2025, p. 5.

³⁹¹ Reykjavík [Declaration, "United around our values."](#) *op. cit.*, p. 10. See also "United for Ukraine and accountability," pp. 4-5.

³⁹² *Ibid.*, p. 14.

³⁹³ See [CDDH-ELI\(2024\)11](#).

political or structural considerations make inclusion impossible, the CDDH could consider proposing a complementary non-binding instrument for the Committee of Ministers' consideration.

223. The CDDH identified a number of thematic gaps or areas where the 2011 Guidelines would benefit from clarification or further development, notably:

- In Cluster 1: Clarifying the scope and definitions of the 2011 Guidelines, including addressing environments where impunity fosters, jurisdictional limitations, international crimes and peremptory norms, and recognising states' responsibility alongside individual accountability;
- In Cluster 2: Enhancing cooperation, both inter-state and with international courts and mechanisms, and reinforcing the duty to execute judgments of the Court and other international courts. A dedicated annex to the Guidelines could address practical recommendations on cooperation;
- In Cluster 3: Expanding criminal law guidance, including on universal criminal jurisdiction, the principle of *aut dedere aut judicare*, amnesties, pardons, and statutes of limitations, as well as modes of liability, the independence of the judiciary, and fair trial rights. A dedicated annex to the Guidelines could address serious human rights violations that also constitute international crimes, outlining the additional standards and obligations under international law;
- In Cluster 4: Guidance on how to apply a victim-centred approach and strengthening victims' rights, including the right to the truth, which may be characterised differently in some legal systems, access to information, victim participation and status, gender- and child-sensitive justice, and reparation. An annex to revised Guidelines could provide detailed recommendations on victims' rights;
- In Cluster 5: Addressing accountability in situations of crisis, the role of non-judicial mechanisms, and educational and awareness-raising.

224. The CDDH considers that these issues can best be addressed in revised Guidelines, which should be the principal outcome of this work. Such revision would send a clear political message of the continuing importance of eradicating impunity for serious human rights violations, while providing a coherent and practical tool for States and practitioners. The CDDH emphasises the importance of maintaining a single, comprehensive document, supplemented where necessary by annexes, in order to avoid fragmentation and ensure that the instrument remains accessible and useful in practice.

225. The CDDH further underlines the importance of ensuring that revised Guidelines add value by complementing, and not duplicating, existing Council of Europe work. In areas already subject to dedicated Council of Europe action, reference to existing standards may suffice. By contrast, in areas where clear gaps remain, revisions of the Guidelines would provide practical added value.

226. On this basis, the CDDH concludes that:

- Revised Guidelines are the most appropriate and useful instrument for member States and practitioners;
- The revised Guidelines should be restructured to reflect contemporary realities, while remaining clear and balanced;
- Annexes should be used where detailed thematic guidance is needed, to avoid unbalancing the core text of the Guidelines; and
- It is important to retain flexibility during the drafting process, so that if issues prove politically or structurally unsuitable for inclusion in the revised Guidelines, additional complementary non-binding instruments could be proposed for the Committee of Ministers' consideration.

227. The CDDH therefore recommends that the Committee of Ministers could:
- Instruct the CDDH to prepare a draft revised version of the 2011 Guidelines on the eradication of impunity, as the principal outcome of this work, with annexes to provide more detailed technical guidance, where necessary; and
 - Instruct the CDDH to submit, if deemed necessary, an interim report indicating whether its work to date has identified issues that are not politically or structurally suitable for inclusion in revised Guidelines and therefore should be addressed in (a) complementary non-binding instrument(s).ⁱ

ⁱ Türkiye does not endorse the conclusions and recommendations contained in the study.