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*Opening address at the
CAHDI Seminar on the Special Tribunal for the
Crime of Aggression against Ukraine
- what role for regional organisations such as the Council of Europe?*

Ladies and gentlemen, dear colleagues, good morning, a very warm welcome to the audience of this important seminar. I would like to start with congratulations to the Council of Europe and thank the Liechtenstein Presidency of the Committee of Ministers for their important role in organising this event. I thank you all very much for attending this crucial discussion.

A bit more than two years ago, in late February 2022, Ukraine was overwhelmed by the all-out war against our country that was launched by the Russian Federation. It shook not only Ukraine, it shook the entire international order, and it certainly shook the Council of Europe as the body which is based on the principles of not only the rule of law as such, but of the international rule of law, and which was and remains the embodiment of the plan to keep Europe a peaceful place. Already then, in late February 2022, the idea was born that the most egregious crime that can possibly attack the very foundations of the international order, namely the crime of aggression, should not go unpunished. The proposal was made to set up a special tribunal for the crime of aggression against Ukraine.

I was very privileged and happy to be one of those who were there to initiate the [Combined Statement and Declaration](#) that was adopted in early March 2022 in London at the Chatham House Conference. I am delighted to have another member of that initial group, Professor Dapo Akande, here sitting at this panel. It is true that it was obvious to us, even back then, that the project is extremely ambitious and that it is not going to be easy to come quickly to a concrete result. However, it was also clear that it was no longer possible to continue the so-called business as usual and to tolerate the most dangerous and fundamental attack on international legal order simply for the lack of an international tribunal vested with the appropriate scope of jurisdiction. Several paths for creating the tribunal were open and were being discussed since then.

Since summer 2022, having become a judge here at the European Court of Human Rights in Strasbourg, I can no longer actively participate in this process. However, I keep observing it

with great and very close interest. In my view, all the options that were initially envisaged, remain on the table. The idea that the Council of Europe as an organisation can play an important role in setting up the tribunal was there from the outset, and this idea remains on the table.

Whilst the global approach, such as setting up the tribunal through the United Nations or further amending the Rome Statute of the International Criminal Court, is certainly an excellent one in theory, it is also clear that one has to look for ways to make this project come true through other possible fora. Here, let me remind us that the Council of Europe is based on the ideas of the rule of law, of democracy, and of human rights. The European Court of Human Rights has said on many occasions that the protection that is available under the European Convention on Human Rights must not be theoretical and illusory but must be practical and effective. In fact, this holds true also for the international legal norms that deal with the prohibition of the crime of aggression. The prohibition of the crime of aggression must not remain theoretical and illusory. There must be real instruments to deal with it, and there must be mechanisms, which are still lacking, to implement what already exists at the normative level. The Council of Europe is certainly a crucial forum to address these issues because it is not only an organisation that deals with human rights and rule of law and democracy, but it is also the centre of the development of international law in Europe.

This is where European international law has been coined and this is where it is being developed. Certainly, the Council of Europe should also demonstrate how the European solidarity can transform into concrete action and into improving the international legal framework. It has already shown its potential with the creation of the Register of Damage for Ukraine, and certainly, there is a lot more to do. I hope that today's discussions will be fruitful and will help us get closer to this goal. Thank you very much.