

Observations of the Council of Europe Commissioner for Human Rights ahead of the 4th Council of Europe Summit

The following observations of the Council of Europe Commissioner for Human Rights, Dunja Mijatović, aim to contribute to the ongoing reflections around the 4th Council of Europe Summit (Reykjavik, 16-17 May 2023). They are grounded in the Commissioner's work promoting awareness of and respect for human rights in the forty-six member states of the Council of Europe.

This work unequivocally reveals a worrying decline in governments' adherence to human rights - and a corresponding erosion of protection for people on the ground. It also exposes - regrettably, in the specific context of this downward trend - the interdependence between human rights, on the one hand, and the rule of law and democracy on the other. Whether in the form of governments refusing to abide by binding Court decisions, weakening or undermining public confidence in the judiciary, stifling civic activism and free media, or reducing parliaments to a rubber stamp, rule of law and democratic backsliding is clearly making human rights violations more serious and immensely more difficult to prevent and remedy.

From the Commissioner's standpoint, therefore, an important task for the Summit should be, as a priority, to acknowledge this backsliding and resolve to counter and reverse it through renewed commitments to human rights and other Council of Europe standards and values.

Impact of Russia's war of aggression against Ukraine

With Russia's war of aggression against Ukraine inevitably taking centre stage at the Summit, the Commissioner can only agree with the strong focus currently being placed on accountability and the need for investigating and prosecuting the perpetrators of grave breaches of international humanitarian law and gross violations of human rights.

In line with the findings and recommendations of the [Memorandum](#) following her visit to Ukraine in May 2022, the Commissioner underscores that perpetrators of crimes under international criminal law, such as war crimes, crimes against humanity, genocide and aggression, must be brought to justice. She also emphasises that only the fair and impartial application of justice will strengthen respect for human rights and international humanitarian law and crucially, will serve the interest of the victims, who must be able to fully realise their rights to truth, justice, and reparations. In the immediate, this means sustaining the investigations that are already ongoing, and notably supporting the International Criminal Court (ICC) and Ukraine's domestic institutional framework, including the Office of Ukraine's Prosecutor-General, the Ukrainian justice system and Ukrainian human rights defenders.

The Commissioner will remain actively engaged in the response to the human rights consequences of the war in Ukraine. Following her second [visit](#) to Ukraine (March 2023) since Russia's full-scale invasion of the country, the Commissioner's immediate focus will be on Ukrainian children transferred to Russia and Russian-occupied territories of Ukraine and on the human rights situation of Crimean Tatars.

The Commissioner also welcomes, in these challenging times for Ukraine and its people, the parallel focus on supporting Ukraine in adhering to human rights standards in the context of the war, as well as for when it, eventually, emerges from it.

Thematic priorities

Russia's war of aggression against Ukraine should also provide the context for reflection on lessons learnt about the effectiveness of our work and on priority thematic areas of focus going forward. This is necessary as human rights backsliding, with its accompanying progressive relinquishment of multilateralism and distancing from democratic and rule of law principles, is putting hard-fought rights and freedoms at peril elsewhere in Europe, too. While the emphasis on supporting Ukraine is both right and necessary, it is crucial that it does not translate, including inadvertently, into a loss of focus on ensuring respect for human rights in all our member states.

The Commissioner adds her voice to the many who have stressed the centrality of coalescing around better implementation of the judgments of the European Court of Human Rights, addressing especially systematic non-compliance.

She also wishes to emphasize how, without a sustained and unwavering focus on countering all attempts at weakening judicial independence and impartiality (including where these have been successful already) it will be impossible to reverse course or prevent further backsliding.

The Commissioner wholeheartedly supports a much stronger emphasis on the human rights dimension of environmental degradation, including climate change, backed by the necessary legal underpinnings and by any useful additional instruments.

Collective reflections around the Summit will hopefully not overlook the threat posed by a diffuse anti-gender backlash. Its current visible focus on effecting retrogression of women and LGBTI rights, notably through tech-facilitated disinformation, should not hide from view its anti-human rights essence and its increasing use as a tool weaponised by political leaders to silence all minority groups, distract from other measures harming human rights and democracy, and stifle dissent and opposition more generally.

With the rapid succession of crises taking an enormous toll on people's social and economic rights, the Commissioner considers that the Summit should also provide the opportunity to commit to strengthening our work on these rights and on equality, including in particular a renewed focus on the rights of persons with disabilities.

The Summit will hopefully also commit to better harnessing the power of youth whose right to participate leads not only to better and more effective decisions but also enriches democracy and helps develop citizenship competencies for life.

Finally, the Commissioner wishes to stress how the crisis surrounding the war waged against Ukraine has, along with the immense human suffering and destruction, brought tangible proof that with political will, governments are capable to respond in a human rights-based manner to challenges of huge proportions. In this sense, the generous response rightly given to Ukrainian people fleeing the war should inspire a reflection on the necessity of upholding the right to seek protection for all those who need it and more generally, make the task of managing migration in compliance with human rights feel more just than daunting.

Two additional areas of focus

In addition to these thematic priorities, the Commissioner wishes to bring into focus two areas on which she feels that progress is needed in order to better future proof our human rights work. Resources permitting, these are also the lines along which she wishes to further develop the

Institution of the Commissioner for Human Rights going forward, strengthening the work it already carries out in these fields.

First, it is essential that we are equipped to react to developments in the field of human rights in a swift and timely manner. While backsliding can happen fast, it is generally the result of mutually reinforcing steps happening in succession. Rapid reaction that uses mandates and powers to the fullest is therefore vital to help prevent such tendencies from gaining ground and becoming entrenched.

Second, the Commissioner considers that the magnitude of the task ahead requires that we better harness and support the knowledge and resilience of partners active in the field of human rights protection at the national level. We must make a priority of working effectively to ensure a conducive environment in our member states for civil society, human rights defenders and National Human Rights Structures. This should include empowering them through closer involvement in our activities and interventions when they face problems. As partners working to uphold our values in particularly difficult circumstances, Russian and Belarusian human rights defenders should be included in these efforts.

Our continent is in dire need for more, not less, human rights. The Council of Europe must remain the guardian of human rights, democracy and the rule of law. Now is the time to truly recommit to the values of our organization and it is the responsibility of member states to do so. The founding principles and values of the Council of Europe continue to be the cornerstones of our societies. Putting them into practice must become a top priority for us all, including Council of Europe member states. Together, we need to strengthen freedoms, promote participation and enable all people to enjoy their human rights. Only united, we will rise to the challenges of our time.