

**OPINION OF THE COMMITTEE OF LEGAL ADVISERS ON
PUBLIC INTERNATIONAL LAW (CAHDI)
ON RECOMMENDATION 2281 (2024) OF THE PARLIAMENTARY ASSEMBLY OF THE
COUNCIL OF EUROPE ON "REPARATION AND RECONCILIATION PROCESSES TO
OVERCOME PAST CONFLICTS AND BUILD A COMMON PEACEFUL FUTURE – THE
QUESTION OF JUST AND EQUAL REDRESS"**

1. On 10 July 2024, the Ministers' Deputies, at their 1504th meeting, agreed to communicate Recommendation 2281 (2024) of the Parliamentary Assembly of the Council of Europe (PACE) on "[Reparation and reconciliation processes to overcome past conflicts and build a common peaceful future – the question of just and equal redress](#)" to the Committee of Legal Advisers on Public International Law (CAHDI) for information and possible comments. The CAHDI also takes note of Resolution 2559 (2024) adopted alongside Resolution 2281 (2024).
2. The CAHDI recalls that the 1957 European Convention for the Peaceful Settlement of Disputes (ETS No. 23) provides for three avenues of peaceful dispute settlement: judicial settlement before the International Court of Justice (Chapter I), conciliation (Chapter II), and arbitration (Chapter III). The CAHDI reiterates the suggestion made in its [Comments](#) on PACE Recommendation 1690 (2005) adopted on 18 March 2005 that the Committee of Ministers invite member states not having done so to become Parties to this Convention. The CAHDI recalls that this Convention aims to improve the possibilities for the legal settlement of disputes between member States of the Council of Europe.
3. The CAHDI further recalls that, in accordance with Article 39 of the European Convention on Human Rights, at any stage of proceedings the Court may place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights. Other Council of Europe treaties also contain provisions regarding the friendly settlement of disputes.
4. The CAHDI also recalls the existence of other international treaties which provide for mediation as a form of peaceful dispute settlement, including:
 - a) The Charter of the United Nations, and in particular Article 33 paragraph 1; and the
 - b) Conventions for the Pacific Settlement of International Disputes of 29 July 1899 and 18 October 1907.
5. The CAHDI notes that paragraph 4 of Recommendation 2281 states that mediated solutions could help to find "achievable, enforceable and implementable solutions for the benefit of victims and of lasting peace" and "should ensure adequate mechanisms for implementing and distributing any awards amongst victims". The CAHDI recalls that mediation, unlike the forms of dispute settlement contained in the European Convention for the Peaceful Settlement of Disputes, does not necessarily result in binding or enforceable obligations.
6. The CAHDI notes that the elements listed in paragraph 5 of Recommendation 2281 describe the establishment of a mediation procedure which may be initiated without the consent of the parties involved. These elements also refer to "potential repercussions" and "consequences" for non-compliance with obligations of good faith and co-operation. The CAHDI notes that mediation is a consensual process unless mandated by a legally binding instrument. Therefore, the states concerned must give their prior consent to the use of this procedure.

7. The CAHDI additionally notes paragraph 5.6 of Recommendation 2281, which indicates that this process “should also be available for identifying a package of reparations and remedies in relation to interstate cases before the European Court of Human Rights, where a given case could benefit from a broader toolkit for proposing solutions that are better adapted to addressing the complexities of post-conflict situations and the needs of victims.” In the context of interstate proceedings before the Court, the CAHDI reiterates that it is for the Court alone to determine the appropriate amount of just satisfaction to award for any violations of the European Convention of Human Rights or the Protocols thereto.

8. The CAHDI expresses its support for initiatives which strive toward reparation and reconciliation processes for past conflicts and pursue a common peaceful future. The CAHDI stands ready to assist with any further requests for its opinion on matters concerning public international law.