

REPORT OF THE HIGH-LEVEL REFLECTION GROUP OF THE COUNCIL OF EUROPE



October 2022

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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French edition

*Rapport du Groupe
de réflexion de haut niveau
du Conseil de l'Europe*

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was set up by the Secretary
General of the Council of Europe
in June 2022, following an
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Turin (Italy) on 20 May 2022.

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Executive summary

The High-level Reflection Group was set up by the Secretary General of the Council of Europe in June 2022, following an invitation by the Committee of Ministers at its 132nd Session in Turin (Italy) on 20 May 2022. It was tasked with drawing up a report and issuing recommendations relating to the Council of Europe's role in responding to the new realities and challenges facing Europe and the world.

■ The Russian Federation's aggression against Ukraine constitutes a blatant violation of the Council of Europe's Statute and led to the Russian Federation's expulsion from the Organisation. Beyond this, it has also fundamentally changed the geopolitical landscape. At a time in which war has returned to Europe, the Council of Europe – the continent's main pan-European organisation – must adapt in order to remain fit for purpose. Its member states should recommit to the Organisation's values and statutory aims at the highest level. This report makes concrete recommendations in that regard, notably to hold a summit of heads of state and government and to establish such summits on a regular and institutionalised footing.

■ The ongoing war in Ukraine is not the only challenge facing Europe and the world. Democratic backsliding, undermining the rule of law, and challenges to our human rights protection system are on the rise. Democracy is in distress. Ensuring democratic security and a strong culture of democracy are key for member states to address these challenges together and to secure peace and prosperity in Europe.

■ In **Chapter A**, the report addresses this by outlining the vital role of education for democratic citizenship. It stresses the importance of the Council of Europe's election observation work, but notes that observing elections is, in itself, insufficient. Free and fair elections need a number of prerequisites. It is important that the Council of Europe closely monitor all of these. The report therefore proposes the development of new benchmarks and indices for the principles of good democratic governance. It also underlines the important roles of youth and national human rights institutions in maintaining vibrant democracies, respectful of human rights and the rule of law.

■ In addition, Chapter A discusses the Council of Europe's budget, noting that the Organisation must be provided with adequate resources to fulfil its mandate. Finally, this chapter stresses the importance of boosting the Organisation's visibility.

■ **Chapter B** opens with a focus on the European Convention on Human Rights and argues strongly in favour of the European Union's accession. It recommends European Union accession to other Council of Europe conventions too, notably the European Social Charter. There is also an examination of the importance of the execution of the judgments of the European Court of Human Rights. On this topic, there are specific recommendations, including the execution of judgments relating to Russia. Finally, this chapter addresses the key issue of respect for human rights in so-called "areas of conflict" and recommends the establishing, within the Council of Europe, of an office whose task it would be to keep the organisation up to date with human rights issues in these specific territories.

■ **Chapter C** concerns co-operation between the Council of Europe and the European Union, relations with a future "European Political Community", the European Union enlargement process, links between the United Nations and the Council of Europe and, crucially, co-operation with Ukraine.

■ On Council of Europe–European Union relations, the report is clear that Europe is not only embodied by the European Union or its 27 member states, but also by the Council of Europe, as a pan-European political community of states focusing on human rights, democracy and the rule of law. However, given the growing geographical and material overlap between the Council of Europe and the European Union, the report recommends strengthening the political dialogue between the two organisations and updating and reinforcing the 2007 Memorandum of Understanding (MoU) so that its effective implementation can be ensured. Specific modalities of co-operation are also proposed. Considering a future "European Political Community", whose remit remains undefined at the time of writing, the report notes that the need for a pan-European political community to safeguard human rights, democracy and the rule of law is already met by the Council of Europe.

■ Chapter C also stresses that co-operation with the United Nations (UN) Human Rights Council should be developed and institutionalised, not only with respect to the Universal Period Review (UPR) process, but also with regard to other mechanisms, such as the Commissions of Inquiry and UN Monitoring missions. Extending the global reach of the Council of Europe's standards should also be a priority.

■ The report notes the Organisation's important work in support of Ukraine and recommends continuing it within the context of its expertise and mandate and in close co-operation with other international partners. The pressing issue of accountability in the context of Russia's ongoing aggression is also addressed, including with regard to the crime of aggression.

■ **Chapter D** of the report discusses relations between the Council of Europe and Russian and Belarusian civil society and democratic forces, recognising the different situations of those two countries. It supports setting up a "contact group" within the Council of Europe Secretariat. This should take place in co-operation with representatives of Belarusian democratic forces and civil society. It also recommends a new framework for Council of Europe co-operation with, respectively, Belarusian and Russian civil society. This should be established under the auspices of the Secretary General.

■ **Chapter E** is the concluding chapter. Its subject is preventing and combating violence against women and domestic violence. This chapter has been included in light of the backlash affecting the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Challenges to the right of women to live a life free from violence should be considered as part of a broader problem linked to the rampant and negative influence of anti-rights movements. Violence against women is one of the most widespread human rights violations in European societies. It affects many millions of people. Given existing legal standards in this area, the report recommends supporting states to ensure that these are implemented effectively. The report also recommends greater efforts to change hearts and minds and to dismantle ingrained patterns of patriarchy and sexism that form the bedrock for violence.

■ The recommendations of the group are summarised at the end of this report.

Introduction

The year 2022 will be remembered as one of terrible violence and seismic change in Europe. The Russian Federation's aggression has caused terrible pain in Ukraine. Thousands are dead, thousands more are injured, and millions have become refugees or internally displaced. First and foremost, our thoughts are with the Ukrainian people. The images that have emerged tell a story of shocking brutality, loss of human lives and large-scale destruction of homes and infrastructure. We hoped that realities like these belonged to our past. We were wrong. This is a wake-up call for Europe.

■ Russia's aggression against Ukraine is incompatible with its membership of the Council of Europe. Hence, reacting to this blatant violation of the Council of Europe's Statute, the Committee of Ministers took the unprecedented decision to exclude the Russian Federation from the Organisation, in line with the unanimous position expressed by the Parliamentary Assembly in its Opinion 300 (2022) and by the Secretary General. Notwithstanding the exclusion of a member, the Council of Europe remains a pan-European powerhouse comprising 46 member states.

■ The ongoing war in Ukraine is not the only challenge facing Europe and the world. We are experiencing democratic backsliding, the questioning of the principle of the rule of law, challenges to our common human rights protection system and many other challenges to our societies. Long term, unresolved frozen conflicts persist.

■ We see democratic security as the key for member states to address these challenges together and to secure peace and prosperity in Europe. The Council of Europe is a "peace project", built on the promise of "never again" after the Second World War. Its aims of achieving "greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress", are all the more relevant today as these ideals and principles are being challenged. The project has lost none of its relevance on the contrary. It is imperative that the 46 member states undertake to uphold and defend their long-standing commitments.

■ Our democracies are not established once and for all. We need to strive to uphold them each and every day, continuously, in all parts of our continent, at all levels of government, and guard against authoritarian leaders and democratic backsliding. Democracy is not just about what happens on election day. True democracies require that elections be free and fair, that opposition candidates may present themselves without fear of arrest or being silenced by other means, that power be transferred between parties based on free and fair election results and that there be systems in place to ensure that an incumbent president or prime minister does not resort to any means possible to remain in power indefinitely.

■ Strikingly, a number of political leaders today use criticism for breaches of human rights and undermining democracy and the rule of law as a way to increase polarisation, bolster their domestic popularity and strengthen their power. What used to be a political liability and cost is now sometimes seen more as a political advantage and gain. This development underscores the challenges we face in upholding our basic values. It also highlights our shortcomings in terms of democratic culture and respect for human rights, which must be remedied immediately. In these dark times, we believe that member states should come together and reconfirm these values and recommit to observing them in full.

■ We consider that the Council of Europe, as the only truly pan-European organisation, is uniquely placed to protect democratic security in Europe and counter the undermining of human rights, democracy and the rule of law. Member states should set out a clear vision of what the role of the Council of Europe should be in the years to come and we hope that this report will contribute to that. The Council of Europe needs to continue its path of reform and to strengthen itself in order to enable it to meet these challenges in the best way possible.

■ The Council of Europe is part of the European architecture born from the Second World War, and its role should not be seen in isolation. We believe that the Organisation should strengthen co-operation with its main partners, notably the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations. At the same time, there needs to be a discussion among member states on the respective roles and mandates of European organisations, so that there is synergy and coherence while avoiding duplication of work and possibly competing standards. The Council of Europe can and should play a key role in the European aspirations of the Council of Europe member states which seek to become members of the European Union.

■ The ideals and principles of the Council of Europe are not only noble aspirations. They have been codified in the European Convention on Human Rights, the European Social Charter and the more than 200 other treaties drawn up by the Council of Europe over the past 73 years. These – coupled with the judgments of the European Court of Human Rights, the recommendations and resolutions of the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities, as well as the recommendations of the Council of Europe's monitoring and advisory bodies, including the Commissioner for Human Rights – are the cornerstones of a truly unique system that protects the fundamental rights of over 730 million people in Europe. We must be able to effectively fulfil this objective

on a daily basis. The backsliding on human rights should be stopped and reversed by upholding existing human rights standards and adapting them to today's challenges and realities.¹

■ The work of the group is taking place in this new, continuously evolving context, still plagued by war. This report² contains the group's input to the ongoing discussion on the role of the Council of Europe in its core areas of expertise of human rights, democracy and the rule of law, based on our collective experience as European and global political leaders over many decades. It comprises five main chapters focusing on investing more in human rights, democracy and the rule of law to respond to Europe's new challenges (Chapter A), the coherence and effectiveness of the Council of Europe's human rights protection system (Chapter B), the future of pan-European co-operation (Chapter C), the potential for co-operation with civil society in the Russian Federation and in Belarus (Chapter D), as well as preventing and combating violence against women and domestic violence (Chapter E). The report's final recommendations addressed to the member states are summarised at the end.

■ To conclude, it has been an honour for us to serve as members of the High-level Reflection Group of the Council of Europe. It has also been humbling, as we look back at the extraordinary vision and leadership that resulted in the establishment of the Council of Europe, the European Convention on Human Rights and the European Court of Human Rights. The archive created in 2018 entitled *Voices of Europe* reminds us of the spirit and depth of commitment then – after two terrible wars – to human rights, democracy and the rule of law. Sadly, there is another terrible war on European soil, an aggression against Ukraine which led to the Russian Federation being excluded from the Council of Europe. This is a time to encourage all citizens of the remaining 46 member states to renew more deeply their commitment to those core values, starting with a formal commitment at the highest level by the heads of state and government of the Council of Europe themselves. It is for them to lead by example.

Mrs Mary Robinson, Chairperson

Ms Ine Marie Eriksen Søreide

Mr Evangelos Venizelos, Rapporteur

Ms Federica Mogherini

Mr Bernard Cazeneuve

Ms Iveta Radičová

Mr Josep Dallerès

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1. Contribution by the Council of Europe Commissioner for Human Rights to the High-level Reflection Group.
 2. The High-level Reflection Group benefited from input from the Parliamentary Assembly, the European Court of Human Rights, the Congress of Local and Regional Authorities, the Council of Europe Commissioner for Human Rights, the Conference of International Non-Governmental Organisations (CINGO), the European Network of National Human Rights Institutions (ENNHRI), the Campaign to Uphold Rights in Europe (CURE), the European Implementation Network (EIN), and 19 other national and international non-governmental organisations.

A. Responding to Europe's new challenges – Investing more in human rights, democracy and the rule of law

1. As the Secretary General noted in her 2021 report “State of human rights, democracy and the rule of law – A democratic renewal for Europe”, we are witnessing a “clear and worrying degree of democratic backsliding”. “Europe’s democratic environment and democratic institutions are in mutually reinforcing decline”, she pointed out. Freedom of expression is in decline in many member states, with an increase in online hate speech and violence against journalists, including murders, often with impunity. The space for civil society is shrinking in an increasing number of states and peaceful public events are often treated as dangerous. There is a growing disconnect between public expectations and political institutions’ record of delivery, with poverty and inequality increasing, trust in public authorities (including as a result of corruption) and satisfaction with the quality of democracy being at historic lows and electoral turnout continuing to fall. The rise of xenophobia and racism also infringes on the democratic space of national minorities and can lead to exclusion from political discourse and decision making. Violence against women and domestic violence persist and have increased during recent lockdowns, which calls for wider ratification and effective implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Chapter E).³

2. This state of affairs is deeply troubling. Democracy at central and local levels is essential if people are to live in freedom, dignity and security. More than that, it is also required as a backstop for maintaining human rights and the rule of law. The three pillars of this work are in fact inseparable. If one weakens, so do the others.⁴

3. We have a vision of Europe as a beacon of human rights, democracy and the rule of law. At a time when war has returned to Europe and some states are moving away from these fundamental principles, the Council of Europe must focus on strengthening its role as their guardian.

3. Some 37 member states ratified this Convention and 8 signed it. Armenia, Azerbaijan, Bulgaria, the Czech Republic, Hungary, Latvia, Lithuania and the Slovak Republic are not yet parties to this convention.

4. See the Council of Europe’s Secretary General’s 2021 annual report “State of democracy, human rights and the rule of law – A democratic renewal for Europe”.

4. The Council of Europe is the benchmark for human rights, democracy and the rule of law in Europe through the standards it adopts, with the European Convention on Human Rights as the cornerstone of the European human rights protection system. The Council of Europe's field of action should therefore continue to focus on those areas where its added value and expertise are recognised. Part of its added value is its mutually reinforcing "triangular" system of developing standards, monitoring their implementation and supporting member states through co-operation activities. The Organisation's intergovernmental, parliamentary, local-authority and civil-society dimensions are also instrumental to the success of its work. At the same time, the strength of its work is directly related to the political will and support of its member states.

5. In its areas of expertise, the Council of Europe's convention system is unique. At the same time, for it to be meaningful, the legally binding obligations member states undertake have to be implemented effectively.

6. To protect democratic security and counter the undermining of human rights, democracy and the rule of law on our continent, we suggest the following actions.

a. Holding a fourth summit of heads of state and government of the Council of Europe at the earliest possible opportunity.

The summit should seek member states' commitment, at the highest political level, to the founding values of the Council of Europe and define the role of the Organisation in the new European geopolitical architecture. The group notes that calls for such a summit were made by the Parliamentary Assembly,⁵ the Irish Presidency of the Committee of Ministers, senior political leaders in a number of member states and the Secretary General. The role a fourth summit may play in cementing the political commitment of all 46 member states to the Council of Europe and in securing the work of the Council of Europe for generations to come, both through adherence to its treaties and political and financial support, cannot be overstated. The group points out that some of the recommendations included in this report could usefully be operationalised on the occasion of such a fourth summit. A fourth summit may also have a positive impact on raising the visibility of the Council of Europe and thereby promoting its standard-setting, monitoring and technical co-operation work. This would address the concern raised by some civil-society organisations about the lack of capacity and focus of the Council of Europe in addressing the overall democratic backsliding and growing challenges to the rule of law in Europe.

b. Institutionalising the summits of heads of state and government as a key feature of the Organisation's work.

We recommend that a Council of Europe summit be held – at a minimum – every four years to define the strategic directions of the Organisation at the highest level, ahead of the adoption of the programme and budget of the Organisation. Member

5. See, most recently, Parliamentary Assembly Recommendations 2235 (2022) "Recent challenges to security in Europe: what role for the Council of Europe?" and 2228 (2022) "Consequences of the Russian Federation's continued aggression against Ukraine: role and responses of the Council of Europe".

states should also see to it that all ministers attend the regular Sessions of the Committee of Ministers in person.⁶

c. Ensuring a strong culture of democracy is key to defending it.

Democracy and democratic citizenship must be taught in our schools and universities. At the World Conference on Human Rights in Vienna in 1993, states were invited to include human rights, democracy and the rule of law in the curriculum of all formal and non-formal educational institutions. The 2nd and 3rd Summits of Heads of State and Government of the Council of Europe supported this approach. The development of the Council of Europe Charter on Education for Democratic Citizenship and Human Rights a few years later, as well as the Common European Framework of Reference for Languages, provided the basis for work to establish competence descriptors to facilitate the implementation of teaching, learning and assessment of competences for a culture of democracy in European education systems. In 2016, in Brussels, the Ministers for Education of the member states committed themselves to establishing the Reference Framework of Competences for a Culture of Democracy (RFCDC). **The group recommends developing a new legal instrument on education for democracy based on the RFCDC in order to strengthen the democratic culture in our member states and give further impetus to its implementation.**

d. Giving better follow-up to the findings of election observations and to monitoring or post-monitoring reports after their adoption.

This could be done for instance by means of periodic meetings between rapporteurs and the national delegation of the country concerned on the progress of reforms, and periodic contacts between Parliamentary Assembly and Congress rapporteurs to exchange views on the country concerned, with support for co-ordinated action from the Secretariat. In addition, a number of member states (e.g. Ireland) have developed and are implementing deliberative and participatory forms of democracy to complement and reinforce citizens' trust in democratic institutions. In this context, the Council of Europe could promote deeper democratic citizenship by encouraging member states to introduce citizens' assemblies, youth parliaments and other ways to empower citizens. **Finally, we also recommend improving the working methods of election observation missions and co-ordination with other organisations, primarily the OSCE/Office for Democratic Institutions and Human Rights (ODIHR) and the European Parliament.**

e. Observing elections is, in itself, not sufficient.

Free and fair elections require that the principle of the rule of law are respected, that opposition candidates may present themselves without fear of arrest or being silenced by other means. It requires, among others, freedom of expression, media freedom and access to media, freedom of assembly, rules

6. Between 2015 and 2020 for instance, on average approximately half of the member states were represented at the level of Minister for Foreign Affairs during the Sessions.

relating to the financing of political parties and so on. It is important that the Council of Europe closely monitors also all these prerequisites for free and fair elections, and not only the organisation of the elections as such. The group notes that the Parliamentary Assembly issued a report in 2022, “Safeguarding and promoting genuine democracy in Europe”, which contains suggestions for “early warning mechanisms” and a “Permanent Platform on Democracy”. **The group recommends that the Council of Europe develops its own benchmarks and indices for principles of good democratic governance. A Council of Europe democracy index could be explored.**

f. Upholding the separation of powers and the principle of the rule of law in European countries is key to democratic security. The group notes the important work undertaken by the European Commission for Democracy through Law (Venice Commission), including its Rule of Law Checklist and **recommends that the Council of Europe explore ways of supporting the implementation of the recommendations of the Venice Commission in member states.** The group suggests certain additional measures in Chapter C. In addition, the Council of Europe should consider issuing its own report on the rule of law, based on the judgments of the Court and the conclusions of the monitoring bodies.

g. Upholding the human rights system and strengthening its effectiveness is key. The group suggests certain measures related to the execution of the judgments of the European Court of Human Rights in Chapter B.

7. As the Secretary General pointed out in her speech at the Council of Europe Youth Action Week, Democracy Now, in June 2022, “[b]uilding sustainable democracies requires the sustained involvement of youth. Not only because democracies should address the needs of all people, but also because we need younger citizens to be engaged, to be invested and to be ready to defend democracy itself”. The group wholeheartedly agrees with this statement. It also acknowledges the unique co-management system at the Council of Europe in the field of youth – giving young people a voice in the decisions taken and which impact them. It further appreciates the role of youth as advocates and practitioners of democratic citizenship and human rights education in line with the Council of Europe Youth Strategy 2030. **With this in mind, the group recommends ensuring the inclusion of a “youth perspective” in the Organisation’s intergovernmental and other deliberations by consulting European youth organisations when shaping public policies in any given field.** And this also in light of a recent informal exchange of views at a Committee of Ministers’ working group related to the participation of organisations representing youth, in particular the Advisory Council on Youth (CCJ), in the development of “soft-law” instruments in the Council of Europe.⁷ **In addition, each international legal instrument adopted by the Council of Europe should highlight the impact it may or may not have on young people (this is a practice which should be developed at national level too).**

7. For more details on this exchange of views see: [Member States hold informal exchange of views with representatives of civil society - News \(coe.int\)](#).

8. The group underlines the crucial role of national human rights institutions⁸ in the national implementation of the Council of Europe *acquis*, not least the European Convention on Human Rights. This presupposes an effective involvement in and co-operation with the Council of Europe. Furthermore, the group underlines that it is all the more essential to strengthen the protection and promotion of civil society space in Europe and welcomes the important work undertaken by the Secretary General and a number of actors, including the Committee of Ministers, to follow up on the decisions adopted at the Ministerial Session in Helsinki (17 May 2019) and **encourages this work to be pursued in line with the relevant decisions adopted at the Ministerial Session in Turin (20 May 2022).**

9. The budget is indicative of the political importance attached to any organisation. Between 2000 and 2020, more than 80% of the increase in the Council of Europe's budgetary posts benefited the Court. This implies that the Council of Europe's other areas of competence have seen their capacity reduced in terms of human potential and therefore effectiveness. While this increase in resources for the Court was desired and even requested by the 2005 Warsaw Summit, there was nothing in the Warsaw Declaration to suggest that budgetary restrictions should be applied to other activities. During the period 2010-2020, while cumulative inflation reached 13.3%, the increase in member states' contributions only rose by 10.3%, which again implied a further reduction in the Organisation's capacity. This trend appears to reflect a lack of political will by member states to commit financially to the Organisation.

10. To try to compensate somewhat for the reduction in activities, extra-budgetary resources were called upon. This technique has led to a significant increase in extra-budgetary resources, which somewhat compensates for the blocking of the "ordinary" budget. The structure of the budget becomes particularly unpredictable when the third leg of activities – co-operation activities in member states – is almost exclusively funded by voluntary contributions. Such contributions may fluctuate and can be dramatically reduced from one year to the next, with consequences for the important work and role of the field offices of the Council of Europe. The group considers that, if this method were to become the norm, it would, in the long run, significantly change the very nature of the Organisation and introduce more than merely budgetary unpredictability.

11. The mandate of the Organisation is decided by its member states. The Council of Europe must be provided with the adequate resources to fulfil its mandate. If not, there must be a process among member states aiming at clear prioritisation, while safeguarding the three pillars of human rights, democracy and the rule of law. The group welcomes the four-year programming cycle, coupled with a biennial budget. It encourages member states to consider further a fully integrated programming and budgeting process. It is indeed the mandate, the objectives and the activities that should drive the budget, not the other way around. The group

8. National human rights structures include both national human rights institutions (NHRIs), which comply with the Paris Principles and other bodies and offices engaged with human rights at national level. National human rights structures include ombudspersons, who may also be NHRIs depending on their powers and functions.

cannot help but note that, under the current budget of the Council of Europe, the amount of money member states are willing to invest in the collective system of protection of our fundamental rights and freedoms represents less than half a euro per person⁹ which is unquestionably insufficient, it must be said. In addition, the cost of the lack of implementation of Council of Europe standards at national level should also be taken into account.

12. The Council of Europe must be visible in all member states. Its achievements must be communicated and its success stories told. The group takes note of ongoing initiatives, such as the Council of Europe Week or the project on the impact of the European Convention on Human Rights,¹⁰ but **recommends that more outreach be carried out by all bodies of the Council of Europe to promote the Organisation and its values.**

9. As a purely comparative example, in 2022, the budget of the City of Strasbourg amounts to 2 000 euros per inhabitant (source: [Budget de la Ville de Strasbourg | Strasbourg.eu](#)).

10. [Impact of the European Convention on Human Rights \(coe.int\)](#).

B. Coherence and effectiveness of the Council of Europe's human rights protection system

I. ACCESSION OF THE EUROPEAN UNION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS

13. The idea of European Union accession to the European Convention on Human Rights has existed for decades. It would allow everyone within its jurisdiction to submit acts by the European Union to the external scrutiny of the European Court of Human Rights regarding their compatibility with the Convention. This would be possible in the same manner as individuals can already today bring applications to the Court concerning actions taken by the 27 European Union member states, which are all members of the Council of Europe, including where those actions implement European Union law.

14. The group considers that the European Union's accession to the Convention would enhance the coherence of human rights protection in Europe, as both the European Union (including its institutions) and its member states would have to comply with the Convention, as applied and interpreted by the Court, as the common minimum benchmark. This would avoid a patchwork of human rights standards and confusion for domestic courts. Moreover, making the Convention binding upon the European Union would send a strong message across the pan-European area and beyond.

15. At this moment of European unity, there is a need to give the accession process a high-level political impetus and a refreshed political will to bring the ongoing negotiations to a close. **The group strongly recommends completing the negotiation on European Union accession to the European Convention on Human Rights as soon as possible and providing the necessary, high-level political support for such an accession on the occasion of a fourth summit.** Having the European Union as a High Contracting Party to the Convention alongside its member states would reaffirm Europe's unity and leading role in the collective enforcement of human rights, in addition to the confidence of citizens in a coherent European human rights protection system.

16. **The group also recommends pursuing the European Union’s accession to the European Social Charter (revised)**¹¹ which represents the “social Constitution of Europe” and an essential component of the continent’s human rights architecture. Such an accession would build and enhance the EU’s own system of protection for social rights and is compatible with European Union law. Accession by the European Union to other Council of Europe instruments should also be pursued, notably the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108), and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and the Convention on the Manipulation of Sports Competitions (Macolin Convention).

II. IMPLEMENTATION OF THE JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS

17. The full and swift execution of the Court’s judgments by all member states is an obligation under the European Convention on Human Rights. Ensuring that execution takes place in all member states must be a priority for the Council of Europe and its member states. This objective is shared by Council of Europe institutions and civil society organisations alike. It is an objective the group fully concurs with.

18. At the end of 2021¹² there were more than 5 500 judgments (5 533) whose execution was still supervised by the Committee of Ministers. Some of them (1 300) represent leading cases (i.e. cases that reveal a structural and systemic problem that needs to be resolved) that have been pending before the Committee of Ministers. This does not mean that the execution process is ineffective. In 2021, the Committee of Ministers closed the examination of 1 122 cases (including 170 cases notably revealing structural or systemic problems) following the adoption by respondent states of individual and wide-ranging legislative and other general measures to execute the Court’s judgments.

19. These data show, however, that continued efforts are needed, in particular to address present day and future challenges, including: (i) the number of judgments issued by the Court is steadily increasing (in 2021, it increased by 40% – should this trend continue, an increase of the capacities of the Department for the Execution of Judgments should be envisaged); (ii) the length of the execution process, often taking more than five years (and sometimes more than 10 years), reveals the existence of obstacles to the speedy and full execution of some judgments and that the mandatory nature of the obligation for states parties to abide by the judgment, as set out in the Convention, albeit fundamental, is not per se sufficient to speedily trigger the adoption of the measures required. These obstacles have to do either with the respondent state’s ability to choose, adopt and implement effectively

11. See Resolution 2430 (2022) of the Parliamentary Assembly “Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union”.

12. For more details on the “state of play” of the execution of judgments of the Court, see the 15th Annual Report of the Committee of Ministers available here: <https://rm.coe.int/2021-cm-annual-report-en/1680a60140>.

the appropriate measures, or with a lack of co-ordination of action to be taken by national authorities, or, finally, with political difficulties, in particular when the judgment at stake touches upon financial, societal or security issues.

20. As noted by national human rights institutions and civil society organisations, as well as by the Council of Europe's Commissioner for Human Rights, the non-implementation of European Court of Human Rights judgments has serious negative effects on human rights, democracy and the rule of law in Europe. There are signs of an increasing lack of compliance with the most basic human rights standards of the Organisation in member states, which requires serious attention and more resolute action on the part of states within the collective system of the Council of Europe. State authorities from the three branches of power should become more robust defenders of human rights and of the collective system put in place to protect, promote and fulfil them. The main pillar of European human rights protection remains the national system: everyone should be able to seek and receive justice at home, in line with the subsidiarity principle.

21. The execution of judgments is and will thus also remain first and foremost a matter for national authorities. The Committee of Ministers, in its decisions and resolutions, and the Secretariat, through the advice offered, provide important guidance but this cannot replace national authorities' action. The guidance that may be offered by the Court in its judgment is of particular relevance, but it only gives an indication as to the choice of implementation measures; the choice itself remains a prerogative of the state party.

22. Irrespective of the nature of the obstacles and the reasons for the delays in execution, a more political approach is necessary, notably for cases where enforcement faces a lack of political will. To this end, an enhanced engagement with the respondent state, as a Party to the European Convention on Human Rights, beyond the Committee of Ministers – Human Rights meetings (CM/DH), is key for the timely and full execution of judgments. In our view, this is precisely what the Council of Europe should focus on in the years to come.

23. The combined, timely and dialogue-based engagement of Council of Europe institutions with national authorities, including national parliaments, NHRIs and other independent authorities and agencies, as well as the interaction with and involvement of civil society, are essential components of a successful execution process. This may require a change in paradigm: the judgment of the Court should not be seen as the end of a process leading to blaming a state party, but rather as an opportunity for improvement with the assistance of the Council of Europe, based on an accurate needs assessment performed by the Court and the monitoring bodies. This should not undermine the final and binding nature of the judgments of the Court or take away the obligation of all member states to abide by its judgments. The Council of Europe has the capacity to provide the technical assistance needed, advise on and facilitate the identification of options compatible with its standards, encourage the co-ordination and timely action of various national institutions and decision makers, and, ultimately, offer a final assessment of the progress made. In specific cases, the implementation of the measures adopted may benefit from the support of other interested international organisations or international financial institutions and/or of the Council of Europe Development Bank.

24. In other words, the Council of Europe should (and can) not only identify breaches of the Convention obligations but also contribute to finding sustainable and acceptable solutions which ensure the unity of its member states based on their common values. The process of early implementation of a leading case shall also reduce the influx of repetitive cases and enable the Court to concentrate on the most important and new issues.

25. It should be borne in mind that only a limited number of judgments require such an additional effort; most of the judgments are implemented properly and without undue delays. In fact, the execution of most judgments does not require any investment beyond good co-operation between the competent state authorities and the Department for the Execution of Judgments.

26. For the execution of those judgments that do require additional efforts, a more comprehensive and co-operative approach is needed. These efforts may need to involve, in addition to the Department for the Execution of Judgments and the Secretariat of the Committee of Ministers, the Parliamentary Assembly, the monitoring and advisory bodies of the Council of Europe, and possibly the Office of the Commissioner for Human Rights. They may also need to involve cooperation activities with the support of the field offices, as appropriate. The possible engagement of parallel procedures, such as the recently decided “complementary procedure”, the use of “infringement proceedings” under Article 46.4 of the Convention, or the Secretary General’s Article 52 requests, can only benefit from a co-ordinated and coherent approach within the Organisation, focusing on identifying solutions that can assist the state concerned and lead to the implementation of the judgments, rather than sanctions. However, it cannot be ruled out that in certain specific cases a system of sanctions should be considered for clear breaches of the commitments made.

27. In view of the above, **the group recommends:**¹³

- a. strengthening the role of the Parliamentary Assembly in the execution process, for instance, by holding an annual debate on the execution of judgments and/or by working with national parliaments to facilitate the execution process;
- b. continuing the practice of the Secretary General raising the importance of the execution of the judgments of the Court during his/her high-level contacts with national authorities;
- c. arranging a high-level visit to the member states concerned by the President of the Committee of Ministers accompanied, as appropriate, by the President of the Parliamentary Assembly and the Secretary General, to draw the attention of national authorities at the highest level to the need to implement the Court’s judgments whose execution is systematically lacking;

13. These options are complementary and not mutually exclusive.

- d. envisaging an increase of the Council of Europe's co-operation and assistance capacity to support the execution of judgments of the Court, possibly by committing part of the Ordinary Budget to such activities;
- e. reinforcing the presence of Council of Europe legal specialists in the state party concerned, possibly in the field offices where they exist;
- f. organising and maintaining a permanent dialogue with the competent national authorities, both at technical and political level and engaging, as appropriate, with independent agencies, NHRIs, legal professionals, academia or civil society;
- g. maintaining contacts with interested international organisations, including the European Union and international financial institutions, to ensure complementarity and coherence of action. As regards the European Union, consideration could be given to assess compliance of the European Union member states with the Court's judgments as per their obligations under Articles 2 and 6 of the Treaty on the European Union (TEU) and monitoring under the relevant European Union procedures (such as Article 7 of the TEU, infringement procedures, annual rule-of-law reports, rule-of-law conditionality and co-operation and verification mechanisms); for Council of Europe member states that are not members of the European Union, consideration could be given to more consistently leveraging the regular human rights dialogues between the European Union and third countries;
- h. experimenting with a mediation procedure, in particular in interstate applications between two Council of Europe member states jointly committed to the Statute;
- i. formalising the practice of calling ministers or other senior government officials of member states whose judgments are not implemented on a systematic basis to attend CM/DH meetings;
- j. formalising a regular meeting between the President of the Court, the Secretary General, the President of the Committee of Ministers, and the President of the Parliamentary Assembly, to improve co-ordination;
- k. encouraging further and closer contacts between the European Court of Human Rights and Constitutional and Supreme Courts in the High Contracting Parties to the Convention, notably those with the highest number of cases pending before the Strasbourg Court and/or where compliance problems persist;
- l. considering the issuing of graduated sanctions in cases of persistent non-compliance with a judgment by a member state.

28. An issue of special concern is the applicability of the Convention system to the Russian Federation. Russia's exclusion from the Council of Europe means that everyone under Russia's jurisdiction will no longer be able to bring applications before the European Court of Human Rights against that state for acts committed after 16 September 2022. This will deprive the victims of serious human rights

violations attributable to this country of the possibility of benefiting from the protection that the Convention has offered them until now.

29. The implementation of the execution of many Court judgments in respect of Russia being supervised by the Committee of Ministers notwithstanding, thousands of cases which need to be dealt with are still pending before the Court. We believe the Council of Europe and its member states should make every possible effort to secure the follow-up of Court judgments.

30. **With this in mind, the group recommends strengthening the dialogue between the Council of Europe and the non-judicial bodies of the United Nations (in particular the special procedures) which could highlight human rights violations.** This dialogue could be accompanied by a “bridging” mechanism that would allow individuals to be redirected to an alternative, non-judicial body if they wish to lodge an appeal concerning a violation of their rights by Russia. For example, if the violation concerns arbitrary detention, they could be invited to address their case to the UN Working Group on Arbitrary Detention.

31. In addition, **we recommend strengthening the role of the Commissioner for Human Rights by establishing an alert mechanism for non-governmental organisations (NGOs) concerning allegations of human rights violations in Russia**, thus making it possible to keep track of these reports and to remain vigilant on the human rights situation in the country. This possibility would be open to all NGOs working with the Council of Europe and its bodies, including Russian NGOs (a similar system could be devised in respect of Belarus).

32. A last point of concern under this chapter relates to the so-called “areas of conflict”. The group recalls the basic principle that the Council of Europe’s treaties are applicable to the whole territory of each contracting party. In particular, all Council of Europe member states are legally bound to guarantee, not only in theory but also in practice, the rights and freedoms protected by the European Convention on Human Rights to all individuals in accordance with Article 1 of the Convention. It is thus a core task of the Council of Europe to promote and protect the fundamental rights of all individuals in Europe. We highlight in particular the role played by the European Court of Human Rights, the Secretary General, the Commissioner for Human Rights, the Committee of Ministers in its function of supervising the execution of the judgments of the Court, the Parliamentary Assembly, the Congress of Local and Regional Authorities, as well as the relevant Council of Europe monitoring bodies, notably the Committee for the Prevention of Torture (CPT). However, in spite of all these efforts, European standards are very rarely applied, and individuals are often deprived of their basic rights, in these areas. These “areas of conflict” are black holes that shut out the light of accountability. Free media are virtually non-existent and legal remedies are the inevitable casualties of the suppression of the rule of law. This results in a fundamental lack of knowledge about what is happening in these areas. With this in mind, **the group recommends the establishing, within the Council of Europe, of an office whose task would be to keep the institutions “au fait” with human rights issues in these “areas of conflict”**. Such an office would build upon the multipronged approach of the Council of Europe to gather vital information on human rights on the ground.

C. Pan-European co-operation

I. CO-OPERATION WITH THE EUROPEAN UNION

33. The European Union is the main institutional and strategic partner of the Council of Europe in political, legal and financial terms.¹⁴ The strengthening of the already fruitful co-operation between the Council of Europe and the European Union should thus be a key objective for both institutions. The European Union's competences and geographical reach have grown over time, in part overlapping with those of the Council of Europe. While the 2007 Memorandum of Understanding (MoU) served its purpose well, the intensification of the institutional relations between the two organisations requires a stronger institutional status – if not a clearer legal basis.¹⁵ The general reference of Article 220 of the Treaty on the Functioning of the European Union (TFEU) to the Council of Europe no longer fully reflects the extent of the partnership between the Council of Europe and the European Union, which share the objective of upholding human rights, democracy and the rule of law in Europe and beyond. **The group therefore recommends strengthening the political dialogue between the Council of Europe and the European Union and that consideration be given to updating and reinforcing the 2007 MoU so that its effective implementation can be ensured. Consideration could be given in this context to setting up at an appropriate level a “liaison group” between the Council of Europe and the European Union to carry out, *inter alia*, early consultations on the respective normative work in the areas of common interest and to follow up the implementation of the MoU.**

34. Such a framework would be key for the political partnership between the two organisations to acquire a global dimension and to ensure consistency and coherence of the European normative framework while consolidating the Council of Europe's benchmarking role in its areas of expertise. This would in turn facilitate the contributions to each other's normative and policy developments and serve the purpose of establishing the linkage between seminal, present and future, Council

14. See the Committee of Ministers' Decisions at its 132nd Session, Turin (Italy) 20 May 2022.

15. Institutionally, the European Union is neither a member of nor an observer to the Council of Europe. At a technical level, the European Union enjoys the status of a “participant” in advisory and technical committees set up by the Committee of Ministers under Article 17 of the Statute. The existing legal framework in the Council of Europe consists of a patchwork of texts, which, though having evolved over the years, do not fully take account of the current state of integration and the wide-ranging transfer of competences reached under the European Union treaties.

of Europe conventions and the normative work of the EU.¹⁶ In the areas that fall within their core competences, certain Council of Europe bodies could usefully be called upon in the context of ad hoc consultation and/or issuing of opinions on the content of relevant European Union texts. This would in fact strengthen co-operation between the Council of Europe and the European Union institutions.

35. As a historical, geographical, political and geopolitical entity, Europe is much more than the European Union or its 27 member states. Europe is also expressed through the institutional form of the Council of Europe, as a pan-European political community of states focusing on human rights, democracy and the rule of law, and having an impact in the field of foreign policy in these areas. In fact, the exclusion of Russia from the Council of Europe after its aggression against Ukraine is one of the most important moves in the field of foreign policy in recent months. Obviously, the exclusion of Russia is based on the statutory framework and objectives of the Council of Europe in terms of human rights, democracy and the rule of law, but it does constitute an expression of a Europe-wide foreign policy decision.

36. The group takes note of the ongoing discussions, among European Union member states, on a future “European Political Community” (EPC) which remains to be defined at the time of writing this report. It notes that such a pan-European political community already exists, in its areas of expertise (human rights, democracy and the rule of law), and it is embodied by the Council of Europe. **We therefore recommend a proper articulation of the role of any future EPC and its relationship with the Council of Europe, taking into account their respective areas of intervention. To this end, a joint declaration at a fourth summit could clarify the respective roles of the Council of Europe and of a future EPC.**

II. CO-OPERATION WITH THE UNITED NATIONS

37. The work and standards of the Council of Europe have a potentially global reach. This is all the more the case at a time in which the operation of the UN Security Council is hampered by tensions and fundamental disagreements among its permanent members. The Council of Europe Secretariat, for instance, already contributes to the Universal Periodic Review (UPR), at the UN officials’ request, by sharing the publicly available findings of the Council of Europe’s monitoring and advisory bodies. Co-operation with the UN Human Rights Council should be developed and institutionalised, not only with respect to the UPR process, but also to other mechanisms, such as the Commissions of Inquiry and UN Monitoring missions. **To this end, internally, the group recommends that the Council of Europe develop consolidated country reports for the attention of the Committee of Ministers grounded in the recommendations of the sectoral monitoring and advisory bodies, and with the political support of the Parliamentary Assembly. Transparency and accessibility of country-specific Council of Europe procedures to national stakeholders, including national human rights**

16. For instance, in the areas of the fight against violence against women (Convention on preventing and combating violence against women and domestic violence); the protection of children against sexual abuse (Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse); and artificial intelligence (draft Council of Europe convention).

institutions, should be ensured. Externally, the group recommends that an inter-institutional link be established between the United Nations' mechanisms and the Council of Europe¹⁷ so that the latter's contribution to the UPR and other procedures can be duly and systematically taken into account.

38. Many of the Council of Europe's conventions are open to non-member states and some are widely ratified outside Europe. Strengthening the promotion and "universalisation" of these open conventions would enable the Council of Europe's normative influence to be extended beyond Europe's borders and contribute to its member states' achievement of the United Nations' Sustainable Development Goals (SDGs). The external and neighbourhood policy of the Council of Europe is very important in this regard, as is the role of the Council of Europe's field offices. Advocacy for the abolition of the death penalty could also be relaunched, in a context where the reinstatement of the death penalty has been mentioned by certain political figures. Closer links with Council of Europe observer states could also be beneficial. These states could be encouraged to promote the Council of Europe's common principles and body of standards in their respective regional areas.

III. CO-OPERATION WITH UKRAINE

39. The Council of Europe has a key role to play in supporting Ukraine, including its efforts to promote human rights, democracy and the rule of law in a sustainable manner. The Action Plan for Ukraine, recently adopted by the Committee of Ministers in Turin, is a strong pillar for supporting the capacity building of the Ukrainian authorities in the Council of Europe areas of expertise. The Council of Europe office in Kyiv is essential in this respect, and its strengthening is welcome. The mobilisation of the Council of Europe Development Bank is also positive and this should be better co-ordinated with the rest of the work of the Council of Europe. The Council of Europe could also play a role in Ukraine's recovery in connection with the international co-ordination platform, the Ukraine Reconstruction Platform, and the European Union's future Rebuild Ukraine facility, as far as the strengthening of the European values is concerned.

40. An increasingly pressing issue in the context of the ongoing aggression by Russia against Ukraine is the issue of accountability for international crimes committed therein. In a recent political declaration on the occasion of the Ukraine Accountability Conference¹⁸ held in The Hague on 14 July 2022, 45 states (including 37 member and three observer states of the Council of Europe) expressed their commitment to enhancing collective action to ensure accountability for all alleged international crimes committed in Ukraine. A lack of accountability leads to impunity and encourages the repetition of crimes, as recognised by the Committee of Ministers in the preamble of its "Guidelines on eradicating impunity for serious

17. In this context, consideration could be given to the good practice of the UN concerning the rights, guidance and support provided to NHRIs and their networks to contribute to intergovernmental and independent country-specific procedures to inspire further transparency and accessibility for NHRIs at the Council of Europe. See [OHCHR | UN Human Rights and NHRIs](#).

18. This conference was hosted by the Government of the Netherlands, together with the Office of the Prosecutor of the International Criminal Court and the European Commission.

human rights violations” of 2011. The group stresses the importance of ensuring a comprehensive system of accountability for serious violations of international law, arising from the Russian aggression against Ukraine. The Council of Europe should remain engaged and contribute to the international efforts in this regard.

41. After Russia’s exclusion from the Council of Europe, the European Convention on Human Rights continues to apply to actions committed by the country before 16 September 2022. The European Court of Human Rights continues to have jurisdiction over such actions. Despite the difficult circumstances and regardless of its derogation under Article 15 of the Convention to secure certain Convention rights in times of war, Ukraine seeks to fulfil its positive obligations concerning the human rights violations committed during the Russian aggression and to bring the perpetrators to justice. The Council of Europe facilitates this by providing expert advice and training to the Ukrainian authorities on Convention requirements for effective investigations into crimes against humanity and war crimes.

42. Co-operation with Ukraine should remain focused on the mandate of the Council of Europe. The Organisation’s work directly contributes to Ukraine’s (draft) National Recovery and Development Plan in such areas as public data transparency, anti-corruption, public-sector reform and streamlining of the public services organisational structure, as well as important cross-cutting issues (e.g. democratic participation, youth empowerment, protection of citizens’ rights, and support to the Prosecutor General’s Office). Initiatives going beyond its mandate would risk being counterproductive, including due to (i) the Council of Europe’s lack of expertise and legitimacy in areas outside its dedicated fields and (ii) the risk of undermining ongoing work of other specialised organisations. **The group recommends that the Council of Europe continues supporting Ukraine within its areas of expertise and its mandate.**

IV. THE COUNCIL OF EUROPE AND THE EUROPEAN UNION ENLARGEMENT PROCESS

43. The Council of Europe already plays a major role in the European Union enlargement process by supporting the countries concerned in carrying out reforms in line with the standards of human rights, democracy and the rule of law, insofar as these reforms are necessary to close the enlargement chapters. The current context, with the renewed emphasis of the prospect of European Union membership for states in the Western Balkans and the candidate status given to Ukraine and the Republic of Moldova, as well as the European perspective for Georgia, lends itself to continuing the advancement of the reform process in the countries of both regions and to strengthening the Council of Europe’s partnership with the European Union, including in the context of the proposals made in this chapter.

44. The benchmarking role of the Council of Europe is important for the delivery of tangible results by the countries concerned towards meeting the membership criteria for European Union enlargement. The execution of certain judgments of the European Court of Human Rights and/or the implementation of relevant recommendations or advice of the Council of Europe’s monitoring and advisory bodies is an essential component of that process. As such, the Council of Europe could play

a relevant political role in contributing to addressing existing challenges or shortcomings in the countries concerned, including through its field offices. Likewise, existing joint programmes between the European Union and the Council of Europe in the neighbourhood states are also well suited to contribute to this objective (Partnership for Good Governance, Horizontal Facility for the Western Balkans and Türkiye). Against this background, **the group recommends that co-operation and capacity-building activities in the fields of human rights, democracy and the rule of law in the European Union's neighbourhood and enlargement countries be more explicitly, institutionally, and frequently used by the European Union to support these countries integrating the *acquis communautaire* and implementing European Union and Council of Europe standards.**

45. **We also recommend that the Council of Europe's support and monitoring role be enhanced with regard to rule-of-law reforms in the countries concerned.** The European Commission should thus refer matters to the relevant Council of Europe bodies (notably the Venice Commission, the Group of States Against Corruption (GRECO) and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)) to assess the rule of law-related reforms planned or implemented, as the case may be, in the context of the European Union's neighbourhood and enlargement processes, particularly when these bodies have already issued an initial opinion or reports on these draft reforms. While the political assessment remains the prerogative of the European Union, the technical legal assessment of these reforms against Council of Europe standards should remain the prerogative of the Council of Europe. **We recommend that such an arrangement be integrated in the proposed "liaison group".**

D. Relations with Russian and Belarusian civil society

46. The Committee of Ministers, in its Turin Ministerial decisions of May 2022, recalled that “civil society plays a vital role in achieving the aims pursued by the Council of Europe and in the development of human rights, democracy and the rule of law in Europe, including in the Russian Federation and in Belarus”. It thus “decided to reinforce the pan-European outreach of the Council of Europe’s values and messages also through co-operation with civil society in its member States and beyond”. The group welcomes this decision; democracy actors in society remain the only channel for reaching out to the people of both countries. It further welcomes the ongoing discussions in the Committee of Ministers, exploring how to operationalise this co-operation.

47. The group recognises that the situations in the Russian Federation and in Belarus are not the same, and that civil society should not be confused with political opposition. For this reason, the group fully appreciates the guiding principles of the above-mentioned reflection, namely i. the importance of making a clear distinction between the situation in each country; ii. the need to prioritise partners’ safety; and iii. the need to ensure co-operation with organisations and individuals that have made a clear commitment to upholding human rights, respecting international law and recognising the territorial integrity of the member states.

48. Regarding civil society from the Russian Federation and Belarus, **the group recommends that, under the responsibility of the Secretary General, a new framework for the Council of Europe co-operation with, respectively, Russian and Belarusian civil society be developed.** This framework should explore all possible means of co-operation with institutional or other stakeholders within the Organisation, including the Conference of International Non-Governmental Organisations, and networks (e.g. schools of political studies). This framework should seek innovative, more effective approaches and formats for interaction, such as internships for young human rights defenders, journalists, scientists or lawyers in the Council of Europe structures.

49. The group points out that it is crucial to proceed with caution in view of the current context and the fluidity of the situation. The avenues of co-operation should focus at present on those organisations and individuals who are located in Council of Europe member states, building bridges for possible developments in the future. It is indeed essential to consider the severe existing pressure on civil society in both countries and avoid endangering them.

50. It should be noted in this respect that, on 29 June 2022, the Russian Duma adopted in final reading a law on “the control over persons under foreign influence” consolidating the pre-existing legislation on so-called “foreign agents”, which had been closely monitored by the Council of Europe, further hardening it. In addition, on 6 July 2022, it adopted in final reading amendments to the Criminal Code aimed at strengthening responsibility for creating threats to the national security of the Russian Federation, with long prison terms foreseen.

51. In Belarus, following the fraudulent elections of August 2020, the authorities reintroduced criminal liability for participation in/organising the activities of a non-registered entity, imposing a penalty of a financial fine, arrest for up to three months or imprisonment for up to two years for unregistered organisations. This provision would not apply where a more severe case under the Criminal Code would be applicable, for instance concerning organisations recognised as extremist.

52. As regards the democratic political opposition in Belarus, following the exchange of views held on 6 July 2022 between Ms Sviatlana Tsikhanouskaya, leader of the Belarusian opposition, and the Committee of Ministers, we understand that the latter invited the Secretary General to set up, in co-operation with representatives of Belarusian democratic forces and civil society, a “contact group” within the Council of Europe Secretariat and to report on its activities on a regular basis and at least twice a year. The aim would be to continue political dialogue, complemented by exchanges at technical and capacity-building levels. **The group welcomes this development and recommends implementing the decision as soon as possible.**

E. Preventing and combating violence against women and domestic violence

53. The backlash affecting the Istanbul Convention and women's right to live a life free from violence should be considered as part of a broader problem linked to the rampant negative influence of anti-rights movements on the enjoyment of human rights by persons belonging to certain groups. Among them, women are becoming the victims of retrogressive laws and policies in several European countries, in particular in the field of sexual and reproductive health and rights. Under the false pretext of defending "traditional values", these movements attack gender equality and reinforce harmful gender stereotypes.

54. Violence against women is one of the main human rights violations with a large impact in terms of the number of persons impacted, the range of rights affected, and the effect on society as a whole. This most frequent violation of women's human rights knows no borders and is exacerbated during social, health and geopolitical crises. As the Secretary General highlighted during the current public health crisis, it is a reality in all spheres of life: in the home, at work, online, in the public sphere and in politics, in education, etc. Any serious attempt at progressing towards more effective human rights protection for all should therefore include a bold strategy to strengthen gender equality and prevent and combat all forms of violence against women. A commitment to this end should be made at the highest political level.

55. The Council of Europe's tools for preventing and combating violence against women and domestic violence, in particular the Istanbul Convention, are recognised worldwide as the "gold standard". In addition to the work of the Group of Experts on Preventing and Combating Violence against Women (GREVIO), the various complementary recommendations adopted by the Committee of Ministers on the proposal of the Gender Equality Commission (GEC) offer useful guidance for member states. Important legal questions regarding violence against women have been addressed by the European Court of Human Rights which has developed rich and solid jurisprudence also based on GREVIO's work. It is important to note that the binding judgments delivered by the Court may also concern member states which are not States Parties to the Istanbul Convention. When its assistance was sought by member states, the Council of Europe's Venice Commission¹⁹ and Directorate of Legal Advice and Public International Law (DLAPIL)²⁰ also offered valuable guidance concerning the ratification process of the Istanbul Convention.

19. See the Venice Commission Opinion available here: [The Venice Commission adopts an opinion on Armenia and the Istanbul Convention - Newsroom \(coe.int\)](#).

20. See the Legal Opinion on the Istanbul Convention available here: www.coe.int/en/web/dlapil/-/legal-opinion-on-istanbul-convention.

56. The group does not recommend any normative or institutional change at this stage. **The group instead recommends that priority be given to the implementation of the existing standards, notably the Istanbul Convention, the promotion of its widespread ratification and the fight against disinformation that undermines the adherence to this treaty.**

57. Concrete measures are needed at a national level to dismantle ingrained patterns of patriarchy and sexism that form the bedrock for violence. Politicians and public authorities play a key role in influencing society's attitudes. As shown through the implementation of the Istanbul Convention so far, "walking the talk" requires a paradigm shift within national policies and concrete action to prevent and prosecute acts of violence against women and domestic violence, protect victims and promote integrated policies. Experience shows that achieving this paradigm shift may be difficult, but member states should realise that this is effective, achievable and measurable.

58. In order to support the work at national level, it is essential to further develop a co-ordinated, detailed narrative on the implementation of existing standards. This includes an acknowledgement of measures taken by member states, an explanation of what the Istanbul Convention is about – in particular, its legal aspects – and the countering of disinformation. We are aware that efforts are being deployed to this end in line with earlier calls by the Secretary General. **We recommend that this work be further pursued at intersecretariat level, taking also into account the jurisprudence of the Court and the relevant opinions of the Venice Commission.** The outcome of this work is a precondition to developing awareness-raising activities in member states.

59. Indeed, the Council of Europe should consider developing a strategy for countering disinformation and anti-gender narratives. This should be done by combining factual, explanatory messages and positive examples to present a coherent and vivid description of how implementing the Istanbul Convention improves the lives of women, men, girls and boys. **We thus recommend that awareness-raising initiatives be launched addressing all relevant actors in member states,** notably governments, parliaments, local authorities, civil society and the general public, depending on specific needs. All senior Council of Europe officials should be involved (jointly and/or individually), notably the Secretary General, the President of the Committee of Ministers, the President of the Parliamentary Assembly, and the Human Rights Commissioner, to promote the work of the Council of Europe in the field of preventing and combating violence against women and domestic violence in selected countries (e.g. those which have not yet ratified the Istanbul Convention).

60. In support of these actions, **we recommend that the Council of Europe deepens its partnerships with other organisations, the European Union and the UN in particular, in order to build a united front to uphold women's rights.** Besides the continuation of the European Union accession process to the Istanbul Convention, normative consistency between the Council of Europe standards and relevant European Union legislative developments should also be sought in view of developing a harmonious legal framework across Europe.

Final recommendations

Responding to Europe's new challenges – Investing more in human rights, democracy and the rule of law

1. Holding a fourth summit of heads of state and government of the Council of Europe at the earliest possible opportunity.
2. Institutionalising the summits of heads of state and government as a key feature of the Organisation's work.
3. Ensuring a strong culture of democracy is key to defending it; to this end, developing a new legal instrument on education for democracy based on the Reference Framework of Competences for a Culture of Democracy in order to strengthen the democratic culture in our member states and give further impetus to its implementation.
4. Giving better follow-up to the findings of election observations and to monitoring or post-monitoring reports after their adoption.
5. Improving the working methods of election observation missions and coordination with other organisations, primarily the OSCE/Office for Democratic Institutions and Human Rights (ODIHR) and the European Parliament.
6. Developing Council of Europe benchmarks for principles of good democratic governance.
7. Considering the creation of a Council of Europe democracy index.
8. Supporting the implementation of the recommendations of the Venice Commission in member states. In addition, the Council of Europe should consider issuing its own report on the rule of law based on the judgments of the Court and the conclusions of the monitoring bodies.
9. Ensuring the inclusion of a "youth perspective" in the Organisation's intergovernmental and other deliberations by consulting European youth organisations when shaping public policies in any given field.
10. Ensuring that the international legal instruments adopted by the Council of Europe highlight the impact they may or may not have on young people (this is a practice which should also be developed at national level).
11. Pursuing the follow-up to the decisions adopted at the Ministerial Sessions in Helsinki (17 May 2019) and Turin (20 May 2022) related to strengthening the protection and promotion of the civil society space in Europe.
12. Carrying out more outreach by all bodies of the Council of Europe to promote the Organisation and its values.

Coherence and effectiveness of the Council of Europe's human rights protection system

13. Completing the negotiation on the European Union's accession to the European Convention on Human Rights as soon as possible and providing the necessary, high-level political support to such an accession on the occasion of a fourth summit.
14. Pursuing the European Union's accession to the European Social Charter (revised) and other Council of Europe instruments, notably the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108), and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and the Convention on the Manipulation of Sports Competitions (Macolin Convention).
15. Pursuing a more comprehensive and co-operative approach in ensuring the execution of the judgments of the European Court of Human Rights (see paragraph 27 of the report for the detailed recommendations).
16. Making every effort possible to secure the execution of Court judgments by the Russian Federation; to this end, strengthening the dialogue between the Council of Europe and the non-judicial bodies of the United Nations (in particular the special procedures) which could highlight human rights violations, in relation to the execution of the judgments of the Court in respect of the Russian Federation.
17. Strengthening the role of the Council of Europe Commissioner for Human Rights by establishing an alert mechanism for NGOs concerning allegations of human rights violations in Russia.
18. Establishing within the Council of Europe an office whose task would be to keep the institutions *au fait* with human rights issues in "areas of conflict".

Pan-European co-operation

Co-operation with the European Union

19. Strengthening the political dialogue between the Council of Europe and the European Union and giving consideration to updating and reinforcing the 2007 MoU so that its effective implementation can be ensured. In this context, consideration could be given to setting up at an appropriate level a "liaison group" between the Council of Europe and the European Union, *inter alia* to carry out early consultations on their respective normative work in the areas of common interest and to follow up the implementation of the MoU.
20. Envisaging a proper articulation of the role of the future "European Political Community" and its relationship with the Council of Europe, taking into account their respective areas of intervention. To this end, a joint declaration at

a fourth summit could clarify the respective roles of the Council of Europe and of a future "European Political Community".

Co-operation with the United Nations

21. Internally, developing consolidated country reports for the attention of the Committee of Ministers, based on the recommendations of the sectoral monitoring and advisory bodies, and with the political support of the Parliamentary Assembly. Transparency and accessibility of country-specific Council of Europe procedures to national stakeholders, including national human rights institutions (NHRIs), should be ensured. Externally, establishing an inter-institutional link between the United Nations' mechanisms and the Council of Europe so that the latter's contribution to the Universal Periodic Review and other procedures can be duly and systematically taken into account.

Co-operation with Ukraine

22. Continuing to support Ukraine within its areas of expertise and its mandate.

The Council of Europe and the European Union enlargement process

23. Recommending that the Council of Europe's co-operation and capacity-building activities in the field of human rights, democracy and the rule of law in the European Union's neighbourhood and enlargement countries be more explicitly, institutionally, and frequently used by the European Union to support these countries integrating the *acquis communautaire* and implementing European Union and Council of Europe standards. Enhancing the Council of Europe's support and monitoring role with regard to rule-of-law reforms in the countries concerned is also recommended.

24. Integrating in the proposed "liaison group" between the Council of Europe and the European Union an arrangement whereby the European Union could refer to the relevant Council of Europe bodies (notably the Venice Commission, GRECO and MONEYVAL) to assess (from a technical and legal point of view) the rule of law-related reforms, planned or implemented, as the case may be, in the context of the European Union's neighbourhood and enlargement processes, particularly when these bodies have already issued an initial opinion or reports on these draft reforms.

Relations with Russian and Belarusian civil society

25. Developing, under the responsibility of the Secretary General, a new framework for Council of Europe co-operation with, respectively, Russian and Belarusian civil society.

26. Implementing the Committee of Ministers decision relating to the setting up of a "contact group" within the Council of Europe Secretariat, in co-operation with representatives of Belarusian democratic forces and civil society.

Preventing and combating violence against women and domestic violence

27. Giving priority to the implementation of the existing standards, notably the Istanbul Convention, the promotion of its widespread ratification and the fight against disinformation that undermines the adherence to this treaty.
28. Developing a co-ordinated, detailed narrative on the implementation of the existing standards, taking also into account the jurisprudence of the Court and the relevant opinions of the Venice Commission.
29. Developing awareness-raising initiatives addressing all relevant actors in member states.
30. Deepening the Council of Europe partnerships with other organisations, the European Union and the United Nations in particular, in order to build a united front to uphold women's rights.

Finally, the group cannot help but note that, under the current budget of the Council of Europe, the amount of money member states are willing to invest in the collective system of protection of our fundamental rights and freedoms represents less than half a euro per person, which is unquestionably insufficient.

Appendix 1 – High-level Reflection Group Terms of reference

Report

■ The year 2022 will be remembered as one of terrible violence and seismic change in Europe. The Russian Federation's aggression has caused profound suffering in Ukraine and cannot be reconciled with membership of the Council of Europe. On 25 February 2022, the day following the invasion of Ukraine by the Russian Federation, the Committee of Ministers decided to suspend the Russian Federation from the Organisation. Three weeks later, on 16 March 2022, in full agreement with the Parliamentary Assembly, it decided to exclude the Russian Federation from the Council of Europe. The Council of Europe was the first, and so far only, international organisation to do so.

■ For more than 70 years, the Council of Europe has built a system of human rights, democracy and the rule of law in Europe that is unique in the world. This system is the strongest foundation for peace in Europe. The Council of Europe remains the largest pan-European organisation and the benchmark for human rights, democracy and the rule of law on our continent.

■ In such a new, and still evolving, European geopolitical landscape, it is vital to rebuild peace in a Europe ravaged by war and to support Ukraine and other countries directly affected by the Russian aggression against Ukraine. In doing so, all member states must reaffirm their commitment to the principles and values of the Council of Europe as enshrined in its Statute and to the implementation of the rights and freedoms enshrined in the European Convention on Human Rights, including the unconditional obligation of the High Contracting Parties to the Convention to abide by the final judgments of the European Court of Human Rights. The European Union's accession to the European Convention on Human Rights will provide greater coherence to the human rights protection system in Europe and ensure a united front in upholding European values.

■ The Council of Europe, whose member states comprise both members and non-members of the European Union, has played a key role in promoting reforms in all member states and supported their European integration process, often from outside the European Union, in light of its standards, and of the findings and recommendations of its advisory and monitoring bodies. This work should be continued and reconfigured, including in co-operation with the European Union, in light of the new geopolitical context. At the same time, the Council of Europe has the responsibility to work with civil society in the Russian Federation and Belarus, empowering those who do not agree with the brutal politics of aggression practiced by their political leaders.

■ In order to support the Council of Europe in considering its responses to these new realities and challenges, the Committee of Ministers invited the Secretary General to set up the High-level Reflection Group. The terms of reference of the group included the following elements:

- a. the role of the Council of Europe as the primary pan-European political community, building upon its statutory aim “to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress” (Article 1 of the Statute);
- b. assessment of the impact on the European human rights protection system posed by the current non-accession by the European Union to the European Convention on Human Rights and of the risks for the Council of Europe deriving from the protracted non-implementation of the judgments of the European Court of Human Rights by the High Contracting Parties to the Convention, and the identification of possible measures to remedy these situations;
- c. definition of a new concept for sustained support to, and political and substantial co-operation with, Ukraine and other Council of Europe member states which are not yet European Union members states, in their European integration path, in close co-operation with the European Union;
- d. identification of actions to pursue and enhance the Council of Europe’s relations with Russian and Belarusian civil society, including a road map on possible avenues of co-operation within the Organisation’s mandate;
- e. preventing and combating violence against women and domestic violence.

Membership of the group

■ The group comprises seven high-ranking individuals and its membership ensures, as far as possible, a balanced geographical distribution, a gender and age balance, as well as diversity of competences and professional backgrounds. A rapporteur is responsible for preparing the draft report.

■ The members are:

1. Mrs Mary Robinson, Chairperson
2. Mr Evangelos Venizelos, Rapporteur
3. Mr Bernard Cazeneuve
4. Mr Josep Dallerès
5. Ms Ine Marie Eriksen Søreide
6. Ms Federica Mogherini
7. Ms Iveta Radičová

Methodology

■ The group will be supported by the Council of Europe Secretariat for the organisation and preparation of its meetings. It will aim at delivering its report at the earliest possible opportunity, and no later than the handover meeting between the Irish and Icelandic Presidencies. Its operational costs will be covered by the budget of the Council of Europe.

Appendix 2 – Meetings of the group

First meeting (Strasbourg, 29 June 2022)

Second meeting (Paris, 25 August 2022)

Third meeting (online, 15 September 2022)

Appendix 3 – Members of the group



Mrs Mary Robinson, Chairperson

■ Mary Robinson is Adjunct Professor for Climate Justice in Trinity College Dublin and Chair of The Elders. She served as President of Ireland from 1990 to 1997 and UN High Commissioner for Human Rights from 1997 to 2002. She is a member of the Club of Madrid and the recipient of numerous honours and awards, including the Presidential Medal of Freedom from President of the United States Barack Obama. Between 2013 and 2016 Mrs Robinson served as the UN Secretary-General's Special Envoy in three

roles; first for the Great Lakes region of Africa, then on Climate Change leading up to the Paris Agreement and in 2016 as his Special Envoy on El Niño and Climate. Her foundation, the Mary Robinson Foundation – Climate Justice, established in 2010, came to a planned end in April 2019.

■ A former President of the International Commission of Jurists and former Chair of the Council of Women World Leaders, she was President and founder of Realizing Rights: The Ethical Globalization Initiative from 2002 to 2010 and served as Honorary President of Oxfam International from 2002 to 2012. She was Chancellor of the University of Dublin from 1998 to 2019.

■ Mary Robinson serves as Patron of the International Science Council and Patron of the Board of the Institute for Human Rights and Business, is an Ambassador for The B Team, in addition to being a board member of several organisations including the Mo Ibrahim Foundation and the Aurora Foundation. Recently she became joint Honorary President of the Africa-Europe Foundation. Her memoir, *Everybody Matters*, was published in September 2012 and her book, *Climate Justice – Hope, Resilience and the Fight for a Sustainable Future*, was published in September 2018. She is also co-host of a podcast on the climate crisis, called “Mothers of Invention”.



Mr Evangelos Venizelos, Rapporteur

■ Evangelos Venizelos is Professor of Constitutional Law at the Law School of the Aristotle University of Thessaloniki. He has held many positions in the Greek Government, including Deputy Prime Minister and Minister for Foreign Affairs, Minister for National Defence, Finance, Justice, Press and Mass Media, Transport and Communications, and Culture and Sports. He was a member of the Hellenic Parliament from 1993 to 2019 and served as General Rapporteur for the revision of the Greek Constitution from 1995

to 2001. He was also a member of the Parliamentary Assembly of the Council of Europe, where he acted, among other things, as a Rapporteur on the execution of the judgments of the European Court of Human Rights. On 18 March 2012, Mr Venizelos was elected President of the Panhellenic Socialist Movement (PASOK).



Mr Bernard Cazeneuve

■ Bernard Cazeneuve is a lawyer by profession and has served as Prime Minister, Minister for European Affairs, Minister for the Budget and Minister of the Interior (France).

■ He was a member of several ministerial cabinets between 1991 and 1993. He then held several local elected offices in the Manche *département* from 1994 to 2012, including that of Mayor of Cherbourg-Octeville, First Vice-President of the Lower Normandy Region and Deputy for the Manche.

■ He was also a judge at the High Court of Justice and the Court of Justice of the Republic between 1997 and 2002.

■ He currently chairs the board of directors of Sciences Po Bordeaux and teaches a course on “France facing the challenges of the fight against terrorism” at the Institut d’Études Politiques de Paris. He is also President of the Club des juristes and Les Musiciens du Louvre.



Mr Josep Dallerès

■ Josep Dallerès is a general education teacher (French and plastic arts) at the Lycée Comte de Foix (Andorra). He has held several public positions at local and national level. He was a member of the Encamp Town Council for 10 years. He was a member of the Andorran Parliament for 15 years, where he was, among others, a member of the Legislative Committee on Finance and Budget, President of the Legislative Committee on Education, Research, Culture and Sports, President of the delegation of the General Council to the Parliamentary Assembly of the

Organization for Security and Co-operation in Europe and a member of the Andorran delegation to the Inter-Parliamentary Union (IPU). Mr Dallerès was a member of the Andorran Government between 1991 and 1993, where he held the post of Minister for Education, Culture and Youth. In this last position, he was responsible, during the drafting of the 1993 Constitution of Andorra, for leading, on the Andorran side, the negotiation of educational agreements with France and Spain and for negotiating, on behalf of the Andorran Government, the distribution of competences between the parishes (districts) and the government within a commission formed by representatives of the parliament, the parishes and the government, with the objective (achieved) of reaching a delimitation by consensus. Between 2011 and 2014 he was Ambassador, Permanent Representative of the Principality of Andorra to the Council of Europe, where he was Chair of the Ministers' Deputies during Andorra's Presidency of the Committee of Ministers.



Ms Ine Marie Eriksen Søreide

■ Ine Eriksen Søreide is the current Chair of the Standing Committee on Foreign Affairs and Defence of the Norwegian Parliament. She has been a member of the Norwegian Parliament since 2001 where she has chaired the Standing Committee on Education, Research and Church Affairs (2005-2009) and the Standing Committee on Foreign Affairs and Defence (2009-2013). Ms Søreide has held a number of positions in the Norwegian Government, notably Minister for Defence (2013-2017) and Minister for Foreign Affairs (2017-2021).



Ms Federica Mogherini

■ Federica Mogherini has been the Rector of the College of Europe since September 2020. She co-chaired the United Nations High-Level Panel on Internal Displacement from January 2020 until September 2021. Previously, she served as the High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the European Commission, from 2014 to 2019. Prior to joining the European Union, she was Italian Minister for Foreign Affairs and International Co-operation (2014) and a member of the Italian Chamber of Deputies (2008-2014).

■ In her parliamentary capacity, she was Head of the Italian delegation to the NATO Parliamentary Assembly and Vice-President of its Political Committee (2013-2014); member of the Italian delegation to the Parliamentary Assembly of the Council of Europe (2008-2013); Secretary of the Defence Committee (2008-2013); and member of the Foreign Affairs Committee. She also co-ordinated the Inter-Parliamentary Group for Development Co-operation. Federica Mogherini was a Fellow of the Harvard Kennedy School in 2020-21. She is also a member of the Board of Trustees of the International Crisis Group, Fellow of the German Marshall Fund, member of the Group of Eminent Persons of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, member of the European Leadership Network for Multilateral Nuclear Disarmament and Non-Proliferation and member of the Board of Directors of the Italian institute for foreign affairs (IAI).



Ms Iveta Radičová

■ Iveta Radičová served as Prime Minister of the Slovak Republic from 2010 to 2012. As the Vice Chair of the Slovak Christian Democratic Union – Democratic Party (SDKÚ-DS), she has been responsible for social affairs and healthcare since 2006. In former positions, she served as Deputy Chair of the Parliamentary Committee on Social Affairs and Housing at the Slovak National Parliament (2006-2009), as Minister for Labour and Social Affairs of the Slovak Republic (2005-2006) and as an expert

for social policy at the European Commission.

■ Iveta Radičová has devoted most of her professional career to social and family policies. In 1992, she founded the non-profit Centre for Analysis of Social Policy, which she headed until being appointed Director of the Institute for Sociology of the Slovak Academy of Sciences in 2005. Since 2017 she has been a Dean at the Pan-European University and European Co-ordinator at the European Commission. She has taught as a visiting professor at universities in Austria, Belgium, the Czech Republic, Finland, Sweden, the UK and the USA.

■ Iveta Radičová was a Fellow for the Media and Democracy in Central and Eastern Europe project at Oxford University in 2013. She has advised various government bodies on social and family policies, participated in the approximation of European legislation in the area of employment and social affairs before Slovakia's accession to the European Union and has also carried out studies on poverty for the World Bank. She has published and edited numerous books and studies mapping the transformation of the social system in Slovakia and other post-socialist countries. Iveta Radičová holds a PhD and is Professor in Sociology from Comenius University Bratislava.

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