CDDH(2024)R101 Addendum 1
29/11/2024

STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH)

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COMMENTS ADOPTED BY THE CDDH[1] ON RECOMMENDATIONS OF THE PARLIAMENTARY ASSEMBLY

- **2285(2024) "Missing persons, prisoners of war and civilians in captivity as a result of the war of aggression of the Russian Federation against Ukraine"**
- **2286(2024) "Guaranteeing the human right to food"**

[1] At its 101st meeting, 25–29 November 2024.

Recommendation 2285(2024) "Missing persons, prisoners of war and civilians in captivity as a result of the war of aggression of the Russian Federation against Ukraine"

1. Referring to its Resolution 2573 (2024) "Missing persons, prisoners of war and civilians in captivity as a result of the war of aggression of the Russian Federation against Ukraine" and underlining its unwavering support to Ukraine for ensuring decisive victory over the Russian Federation following the full-scale military aggression against Ukraine unleashed by the Russian Federation on 24 February 2022, the Parliamentary Assembly reiterates its condemnation of the situation related to the fate of prisoners of war and civilians held in Russian captivity and will remain involved until the last captive is released and/or repatriated.

2. The Assembly believes that the Council of Europe should ensure that this topic remains high on the international political agenda of all Council of Europe member States as well as observer States and States whose parliaments enjoy observer or partner for democracy status with the Assembly in order to prevent that persons go missing in the hands of the Russian Federation, to clarify the identity and whereabouts of missing persons, to ensure the proper treatment of Ukrainian prisoners of war and civilians held in Russian captivity in line with international humanitarian law and human rights standards, their prompt release, their socio-medical rehabilitation, and the accountability of the Russian Federation and the perpetrators of the crimes committed against these persons.

3. Convinced that it shares the same political priority, the Assembly invites the Committee of Ministers to keep the topic under close scrutiny in the context of its continuous deliberations regarding the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine and the next steps towards creating a reliable mechanism that will ensure justice and compensation for Ukraine and its people, notably the setting up of an international mechanism to compensate the victims and the establishment of a special tribunal for the crime of aggression against Ukraine.

4. The Assembly reminds the Committee of Ministers that partner States, including Council of Europe member States, may introduce packages of international targeted sanctions against Russian officials responsible for the unlawful deprivation of liberty of Ukrainian civilians. In the same vein, and based on the principle of universal jurisdiction, partner States may initiate criminal prosecution against Russian officials responsible for the unlawful deprivation of liberty of civilians.

5. The Assembly remains available to discuss with the Committee of Ministers possible next steps on the issue of Ukrainian prisoners of war and civilians held in Russian captivity during a future Joint Committee meeting.

CDDH comments

1. The CDDH takes note of Parliamentary Assembly Recommendation 2285 (2024), "Missing persons, prisoners of war and civilians in captivity as a result of the war of aggression of the Russian Federation against Ukraine". It shares the Assembly's concern over the fate of those immediately concerned and the situation of their relatives.

2. As regards paragraph 3 of Recommendation 2285, the CDDH emphasises the particular role of the Council of Europe in the ongoing work on the establishment of the Special Tribunal for the crime of aggression against Ukraine and drafting its foundational documents.

The CDDH recalls that the Register of Damage for Ukraine – first step of a comprehensive compensation mechanism – was established under the auspices of the Council of Europe, and is already operational and collecting claims. The CDDH welcomes efforts towards establishing the remaining parts of the mechanism, namely a claims commission and compensation fund.[2]

3. As regards paragraph 4 of Recommendation 2285, the CDDH recalls the ongoing work of its Drafting Group on the eradication of impunity for serious human rights violations (CDDH-ELI), which is examining the need for and feasibility of (an) additional non-binding instrument(s) to supplement the 2011 Committee of Ministers' Guidelines, bearing in mind the CDDH's main task, "where relevant, [to] take account of, and propose effective responses to, the challenges posed in its field of competence by the Russian Federation's war of aggression against Ukraine".

4. The CDDH-ELI has identified a series of issues whose possible inclusion in revised Guidelines or a supplementary instrument it will examine. These include several of direct relevance to Recommendation 2285, including universal criminal jurisdiction, reparations, compensation measures and mechanisms, and targeted sanctions, as well as the immunities of State officials and interstate co-operation.

5. Experts invited to an exchange of views at the first CDDH-ELI meeting underlined the importance of impunity for crimes under international law being covered by the Council of Europe's normative framework, especially in the light of the war in Ukraine; and at its second meeting, it exchanged views with, among others, the Council of Europe Director for Legal Advice and Public International Law on perspectives on the establishment of a Special Tribunal for the Crime of Aggression against Ukraine. At its third meeting in January 2025, the CDDH-ELI will exchange views with the Executive Director of the Register of Damage caused by the aggression of the Russian Federation against Ukraine. The aim of these exchanges of views is partly to ensure that the CDDH's final proposals are complementary to other existing and envisaged processes and mechanisms, including those relating to Russia's war of aggression against Ukraine.

6. The CDDH expects to adopt its aforementioned study on need and feasibility at its 103rd meeting in November 2025.

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[2] This paragraph should be interpreted without prejudice to reservations made by Türkiye to paragraphs 10, 13 and 16 of the Reykjavik Declaration adopted at the Fourth Summit of Heads of State and Government of the Council of Europe, as well as to the documents adopted at the 133rd Session of the Committee of Ministers.

Recommendation 2286(2024) "Guaranteeing the human right to food"

1. The Parliamentary Assembly refers to its Resolution 2577 (2024) "Guaranteeing the human right to food". It notes that the Council of Europe was active in the past in promoting a human rights approach to healthy food in co-operation with other international organisations such as the World Health Organisation (WHO) and the European Union (then the European Economic Community).

2. Despite past activities such as the Partial Agreement in the Social and Public Health Field and work on consumer health and food quality, the Council of Europe is today less present in this area, in which the European Union now takes the lead in the development of food law, with the focus on food safety and consumer protection.

3. The Assembly considers that in complement to legislation on food safety and consumer protection, there is room for a wider approach reflecting the full complexity of the issues linked to access to food as a fundamental right.

4. The Assembly is convinced that only a holistic human rights-based approach, centred on the right to food, can ensure the transition to sustainable and inclusive food systems.

5. The Assembly highlights in this respect that the right to food is recognised in international law as an autonomous human right, interdependent and indivisible with other human rights (in particular the right to an adequate standard of living, the right to a healthy environment, the right to water, the right to health, the rights of farmers and the rights of workers in food systems).

6. The human rights framework which has thus developed in international law places the requirements of food availability, accessibility, sustainability and adequacy at the heart of the approach. It is based on the principles of participation, accountability, non-discrimination, transparency, human dignity, the rule of law and solidarity. It also pays particular attention to inequalities at all stages of the food chain and makes it possible to define the shared rights, duties and responsibilities of States, the food industry and, potentially, individuals.

7. The Assembly believes that this approach, fully in line with the core values of the Council of Europe, is an essential lever which the Council of Europe together with other international organisations should (re)activate as a basis to work for the right to food for all.

8. The Assembly therefore recommends that the Committee of Ministers:

8.1 reclaim the subject of the right to food as an autonomous right that is interdependent with the right to a healthy environment, for example by including it in the building blocks for the new Council of Europe strategy for the environment announced in 2024 on the basis of Appendix V of the Final Declaration of the Reykjavik Summit of Heads of State and Government;

8.2 re-establish institutional synergies with the Food and Agriculture Organisation (FAO) and the World Health Organization (WHO) in order to identify areas of complementarity;

8.3 invite the Steering Committee for Human Rights to explore the possibility of supplementing the Organisation's normative framework to guarantee the right to food.

CDDH comments

1. The CDDH takes note of Parliamentary Assembly Recommendation 2286 (2024), "Guaranteeing the human right to food", including the proposal in its paragraph 8.3.

2. The CDDH notes that whilst Article 11 of the International Covenant on Economic, Social and Cultural Rights recognises "the right of everyone to an adequate standard of living for himself and his family, including adequate food", the European Social Charter (Revised) does not contain a comparable provision.

3. The CDDH recalls its study on the need for and feasibility of a further instrument or instruments in the field of human rights and the environment (study on need and feasibility). A central issue is the question of whether or not the Council of Europe should adopt an instrument guaranteeing the right to a clean, healthy and sustainable environment (right to a healthy environment). The CDDH recalls that the UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment considered a right to food to be one of the constituent elements of the right to a healthy environment.[3] The UN Committee on the Rights of the Child took a similar approach in its General Comment No. 26 on children's rights and the environment. Whilst the right to food is not limited to this environmental context, it is nevertheless related to the CDDH's ongoing consideration of the right to a healthy environment.

4. The Committee of Ministers has not yet reached a conclusion as to the need for and feasibility of a further instrument or instruments in the field of human rights and the environment, and the CDDH has not sought to determine constituent elements of a possible right to a healthy environment. However, the work of these UN actors implies a potential for any future Council of Europe work on human rights and the environment to consider also issues relating to a right to food. In the interests of efficiency and coherency, therefore, the CDDH would advise against taking any operational decisions specifically concerning the right to food until after the Committee of Ministers has taken decisions on follow-up to the CDDH study on need and feasibility.

[3] See "Right to a healthy environment: good practices", doc. A/HRC/43/53, 30 December 2019.