



CDDH-ELI(2025)05REV
09/09/2025

**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

**DRAFTING GROUP ON THE ERADICATION OF IMPUNITY FOR
SERIOUS HUMAN RIGHTS VIOLATIONS
(CDDH-ELI)**

Amended draft text
on cluster 5

5. Cluster 5: Other Issues

1. The CDDH identified other issues to be addressed within one cluster.

i. Impact of situations of crisis on the fight against impunity

2. The 2011 Guidelines do not explicitly address the effects of crisis situations on efforts to combat impunity, nor do they highlight the necessity of ensuring the continuity of justice and accountability mechanisms during such times.

3. Human rights and the rule of law must be maintained and respected during situations of crisis, and measures adopted in response to this crisis must not result in impunity for human rights violations. Whilst there is no established legal definition of a “situation of crisis,” one may arise from armed conflict, public health emergencies, natural disasters, or internal disorder.¹

4. In May 2024, the Committee of Ministers adopted a Toolkit on Human Rights Impact Assessment of the measures taken by the State in Situations of Crisis.² This initiative responded to the challenges faced by member States due to the Covid-19 pandemic, whilst being intended for application in any situation of crisis, including for example natural disasters, wars, energy crises, and civil unrest. The Toolkit emphasises that human rights remain applicable during such times and provides practical guidance to help states strike a balance between competing interests through a human rights-based approach. In particular, it offers guidance on how to conduct a human rights impact assessment (HRIA) in situations where extremely rapid responses may be necessary. Other Council of Europe bodies published specific guidance during and after the Covid-19 pandemic, including regarding children, women and persons deprived of liberty,³ whose rights must be respected and protected at all times.

5. At the end of 2024, the Committee of Ministers adopted Recommendation CM/Rec(2024)7 on the effective protection of human rights in situations of crisis. This Recommendation calls for the incorporation of relevant principles into domestic law, as appropriate.⁴ The Recommendation affirms that emergency powers should only be used in exceptional circumstances and must

¹ For the purpose of [Recommendation CM/Rec\(2024\)7](#) (see below), a situation of crisis was defined as “any situation which necessitates a response by the State that may involve alterations in the distribution of powers and functions at State level as well as the adoption of measures outside the regular legal framework, whether or not such measures are adopted under a declared state of emergency or similar legal regime.” [See Explanatory Memorandum to Recommendation CM/Rec\(2024\)7, para. 2.](#)

² See [Toolkit for human rights impact assessment of the measures taken by the State in situations of crisis](#), adopted by the Ministers’ Deputies at their 1491st meeting, 6 March 2024.

³ See Group of Experts on Action against Trafficking in Human Beings (GRETA), [“In time of emergency the rights and safety of trafficking victims must be respected and protected,”](#) 2 April 2020. See also Steering Committee for the Rights of the Child (CDEF), [“The Covid-19 pandemic and children: Challenges, responses and policy implications,”](#) updated on 12 March 2021; CDEF, [“Covid-19 pandemic responses: Lessons learnt from management and adaptation to ensure that children are treated as rights holders during the pandemic and beyond,”](#) September 2020. See also [Statement by the President of GREVIO, Marceline Naudi, on the need to uphold the standards of the Istanbul Convention in times of a pandemic,](#) 24 March 2020; Statement by [“Covid-19: ‘Put safety of women at the heart of all measures to tackle coronavirus’ says Rapporteur,”](#) 23 March 2020; Committee of the Parties to the Istanbul Convention, [“The standards of the Istanbul Convention apply at all times,”](#) 20 April 2020. See also [CPT, Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease \(Covid-19\) pandemic,](#) 20 March 2020.

⁴ See Recommendation [CM/Rec\(2024\)7](#) of the Committee of Ministers to member States on the effective protection of human rights in situations of crisis, adopted [at the 1512th meeting of the Ministers’ Deputies](#) on 19 November 2024, [para. 2.](#)

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comply with human rights obligations, upholding the overarching principles of the rule of law, legality, necessity, proportionality, temporariness, and foreseeability.⁵

6. In recent years, UN human rights mechanisms have expressed concern regarding declarations of states of emergencies by national authorities that suspend rights without meeting the requirements of the International Covenant on Civil and Political Rights (ICCPR) concerning derogations.⁶

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7. The CDDH considers it essential to emphasise the importance of upholding human rights and the rule of law during situations of crisis. Member States should be reminded that measures taken in response to crises must not lead to impunity for serious human rights violations, and that victims must have continuing access to effective remedies. The CDDH also notes that the 2011 Guidelines do not address the challenges posed by disruptions to judicial systems and investigative mechanisms during situations of crisis. Specific recommendations have been provided to guide member States in this regard.⁷

8. Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States:

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- clearly outline their responsibilities to uphold justice and accountability during situations of crisis;
- ensure the continuity of justice and accountability mechanisms during situations of crisis, including procedures for reporting serious human rights violations and handling complaints, and contingency plans to preserve judicial and investigative capacities;
- guarantee that victims of human rights violations retain access to effective remedies during situations of crisis, with particular attention to vulnerable groups who may be disproportionately affected;
- provide training to judicial and law enforcement personnel to respond effectively to human rights violations in situations of crisis;
- support and safeguard the role of national human rights institutions and civil society organisations in situations of crisis, recognising their vital role in identifying and documenting violations, especially when state mechanisms are disrupted.

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prepare and implement temporary mechanisms to handle human rights complaints when traditional judicial systems are non-functional

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ii. Standards applying to non-judicial mechanisms

9. The 2011 Guidelines call on states to consider establishing non-judicial mechanisms, citing parliamentary inquiries, ombudspersons, independent commissions, and mediation as complementary procedures to judicial remedies guaranteed under the European Convention on Human Rights.⁸ In addition, the Guidelines encourage states to take all appropriate measures to

⁵ See Recommendation II.5 of [CM/Rec\(2024\)7](#).

⁶ See for instance [CCPR/C/PER/CO/6](#), Concluding observations on the sixth periodic report of Peru, 5 April 2023, [para. 12](#), where the Human Rights Committee raised concerns about declarations of state of emergency and derogation from Covenant rights, including in connection with social protests. See also [CCPR/C/VEN/CO/5](#), Concluding observations on the fifth periodic report of the Bolivarian Republic of Venezuela, 28 November 2023, [para. 13](#), raising concerns about prolonged state of economic emergency and reports of serious human rights violations committed during states of emergency in response to the coronavirus disease and the suspension of the right to peaceful assembly during the state of economic emergency.

⁷ See Recommendation [CM/Rec\(2024\)7](#), [op. cit.](#) See also the European Commission for the Efficiency of Justice (CEPEJ) Declaration, "[Lessons learnt and challenges faced by the judiciary during and after the Covid-19 pandemic](#)," 10 June 2020.

⁸ 2011 Guidelines, [XV](#).

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establish accessible and effective mechanisms through which victims can receive reparation for the harm suffered.⁹

10. Non-judicial mechanisms are processes or institutions designed to address serious human rights violations without relying solely on formal judicial proceedings. While they do not impose criminal penalties, they play a crucial role in uncovering the truth, acknowledging harm, and recommending measures to promote accountability and provide reparation for victims (see also above, Cluster 4, vii. Reparation, compensation measures and mechanisms).

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11. Non-judicial mechanisms are particularly important in contexts where judicial systems may be overwhelmed, compromised, or inaccessible – such as during conflict, post-conflict, or transitional periods. These mechanisms are most effective when they complement, rather than replace, formal justice processes. Their focus is often on truth-telling, reconciliation, and addressing systemic issues contributing to impunity. Ensuring victims' consultation and participation in transitional justice measures is essential, not only to facilitate healing but also to influence the design of policies, the selection of commissioners, the formulation of recommendations, and the development of follow-up mechanisms and initiatives.¹⁰

12. In 2023, the Council of Europe Commissioner for Human Rights addressed the need for justice and reconciliation in response to past atrocities committed in the region of the former Yugoslavia. The Commissioner's recommendations included placing victims and survivors at the centre of transitional justice efforts – particularly through truth-seeking processes and effective consultation with, and participation of, victims.¹¹

13. In the same year, the UN Secretary-General issued a Guidance Note on transitional justice as a strategic tool for people, prevention and peace.¹² According to the UN, transitional justice includes both judicial and non-judicial mechanisms, such as individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof. This wider notion of justice has been advanced in the field of transitional justice, in which further elements of redress complement and reinforce processes of criminal accountability.¹³ The UN Secretary-General Guidance promotes transitional justice as a pragmatic, human rights-based policy instrument, relevant to peacebuilding, accountability, and human rights protection. It outlines key features of the UN approach to transitional justice, namely:

- normative – grounded in international norms and standards;
- strategic – context-sensitive and long-term in perspective;
- inclusive – empowering victims and involving marginalised groups;
- gender-responsive – incorporating a gender lens and promoting women's leadership; and
- transformative – aiming to address structural causes of conflict and injustice and deliver tangible change.

14. In light of growing recognition of the role of non-judicial mechanisms in addressing impunity for serious human rights violations, the CDDH considers that the 2011 Guidelines could be updated to address key issues. Revised Guidelines and/or (an) additional non-binding instrument(s) could recommend that member States:

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⁹ 2011 Guidelines, XVI.

¹⁰ [A/HRC/34/62](#), Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 27 December 2016, paras. 36-38.

¹¹ See [Dealing with the past for a better future - Achieving justice, peace and social cohesion in the region of the former Yugoslavia](#), Issue Paper, Council of Europe Commissioner for Human Rights, November 2023, pp. 86-91.

¹² See UN Secretary-General [Guidance Note on Transitional Justice](#), October 2023.

¹³ *Ibid.*, p. 2.

- ~~consider establishing other complementary~~ non-judicial mechanisms on top of parliamentary inquiries, ombudspersons, independent commissions, and mediation already mentioned in the Guidelines;
- engage in meaningful consultation with victims during the design of non-judicial mechanisms addressing serious human rights violations;
- adopt a holistic approach ~~to~~ establishing ~~complementary~~ non-judicial processes, ensuring time-lines and adaptability to the specific conflict, context, or societal need;
- ~~ensure that non-judicial mechanisms are independent and impartial and have~~ clear mandates and sufficient resources to operate effectively;
- promote transparency throughout non-judicial processes and outcomes to foster open trust and accountability;
- ensure inclusive victim participation, particularly incorporating the perspectives of marginalised and vulnerable groups, and applying a gender-sensitive approach;
- enhance the role of ~~national human rights institutions and~~ civil society organisations in the design, implementation, and follow-up of non-judicial processes;
- ensure the effective implementation of recommendations and findings of non-judicial mechanisms, so they contribute meaningfully to the fight against impunity and the pursuit of justice for victims;
- establish follow-up and monitoring frameworks to assess the implementation of recommendations from non-judicial mechanisms and ensure long-term accountability;
- promote regional and international cooperation, including support for non-judicial mechanisms such as the Register of Damage in Ukraine, and encourage collaboration in the design and implementation of similar mechanisms (see also recommendation in Cluster 4, vii. Reparation, ~~compensation measures and mechanisms, paragraph [XX]~~).

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iii. Education and awareness-raising

15. The 2011 Guidelines emphasise the need to make relevant authorities aware of their obligations to prevent impunity¹⁴ and encourage individuals who are aware of serious human rights violation to report them.¹⁵

16. ~~In 2022, the General Assembly of the United Nations adopted a Resolution on the role of prevention in the promotion and protection of human rights and to ensure accountability and justice.¹⁶ The resolution calls on states to promote supporting and enabling environments for the prevention of human rights violations and abuses by, *inter alia*, ratifying and fully implementing international human rights conventions, enhancing and developing good governance, democratic systems and the rule of law and accountability, adopting policies to ensure the enjoyment of all human rights, addressing violence, all forms of discrimination, inequality and poverty, promoting freedom of opinion and expression, promoting and protecting a safe and enabling environment for human rights defenders and journalists, and promoting human rights education and training.¹⁷ These aspects could be strengthened in revised Guidelines and/or (an) additional non-binding instrument(s) by including specific measures and recommendations for incorporating education and awareness-raising as core tools in the fight against impunity.~~

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¹⁴ 2011 Guidelines, III.3.

¹⁵ 2011 Guidelines, III.5.

¹⁶ General Assembly Resolution 5114(2022), *op. cit.*

¹⁷ *Ibid.*, para. 3.

17. Education and awareness-raising are essential components for promoting accountability and preventing the recurrence of serious human rights violations. A more comprehensive framework is needed – one focused on educational initiatives and public awareness campaigns aimed at fostering a culture of human rights and justice.

18. Education equips individuals with the knowledge to understand justice, accountability, and human rights, while awareness-raising creates public recognition of these issues, mobilises societal support, ensures accountability, and helps prevent future violations. By informing citizens, civil society, and key stakeholders about the importance of combating impunity, awareness-raising fosters a culture of justice, transparency, and respect for human rights. Education on justice and accountability for core international crimes is particularly important to improve public understanding, especially in affected communities.¹⁸ Communication efforts – such as judicial outreach – can also help galvanise public support.¹⁹

19. The Council of Europe has worked extensively on history education, promoting education on past atrocities to foster mutual understanding, respect for human rights, and democratic citizenship. In 2010, the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education was adopted through Recommendation CM/Rec(2010)7, providing general recommendations to member States although not explicitly related to areas such as violations of serious human rights violations or peace education.²⁰ The Education for Democratic Citizenship and Human Rights Education (EDC/HRE) programme develops initiatives to help young people understand human rights, democracy, and the rule of law. The European Youth Foundation, a fund established by the Council of Europe, provides financial and educational support for European youth activities, including projects focused on raising awareness of past atrocities and the consequences of impunity. These initiatives could form the basis for revised Guidelines and/or (an) additional non-binding instrument(s) to explicitly encourage the integration of education on past human rights violations into national curricula – particularly in post-conflict or transitional societies.

20. The UN Special Rapporteurs in the field of cultural rights and on the right to education have both recommended the adoption of a multi-perspective approach to teaching about past atrocities, emphasising the need for critical thinking, empathy, and human rights education.²¹ These recommendations could be directly incorporated into revised Guidelines and/or (an) additional non-binding instrument(s) to ensure that history education on human rights violations fosters understanding, empathy, and prevention of future abuses.

21. In 2023, a report by the Council of Europe Commissioner for Human Rights on the former Yugoslavia underlined the importance of educational reforms in preventing the recurrence of serious human rights violations. Specific measures include promoting acceptance of cultural, social, religious and other differences, memorialisation efforts to honour the victims and promote peace, justice and reconciliation, investment in history teaching, and the preservation and

¹⁸ See also [The Prague Statement](#) on Universal Criminal Jurisdiction, *op. cit.*, p. 3.

¹⁹ *Idem.*

²⁰ See Recommendation [CM/Rec\(2010\)7](#) of the Committee of Ministers on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, adopted [at the 120th session](#), 11 May 2010. See also Recommendation [CM/Rec\(2011\)4](#) of the Committee of Ministers to member States on education for global interdependence and solidarity, adopted on 5 May 2011, [para. 1](#).

²¹ See [A/68/296](#), Report of the Special Rapporteur in the field of cultural rights, 9 August 2013, [paras. 7](#) and 88(a). See also [A/74/243](#), Report of the Special Rapporteur on the right to education, 29 July 2019, [paras. 68\(e\)](#) and 88.

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accessibility of archives to support processes of dealing with the past.²² On this last aspect, the Parliamentary Assembly (PACE) recently adopted a resolution on the right to freedom of information and access to historical documents.²³ In particular, PACE stressed that “[i]nformation about serious violations of human rights or humanitarian law and crimes committed by State agents should not be withheld on national security grounds in any circumstances.”²⁴

22. The CDDH considers that there is a need to better address the educational and awareness-raising aspects in revised Guidelines and/or (an) additional non-binding instrument(s), which could include the following recommendations:

- promote, where appropriate, reform of educational systems to integrate memory education and historical justice initiatives, particularly in post-conflict and transitional contexts;
- utilise public awareness campaigns, social media platforms, and online tools, collaborating with civil society to amplify their impact;
- develop targeted awareness campaigns for law enforcement, judicial authorities, and government officials to increase their understanding of their roles in preventing impunity and supporting accountability;
- promote the use of memorials and commemorative events as part of public education efforts;
- collaborate actively with national human rights institutions and civil society organisations in designing and delivering education and awareness-raising programmes;
- ensure the preservation and accessibility of archives related to serious human rights violations, and integrate their use in history education and memorialisation initiatives.

iv. Targeted sanctions

23. Targeted sanctions include measures such as economic restrictions, account freezes, travel bans, and visa prohibitions.²⁵ They have been increasingly used against individuals reasonably believed to be personally responsible for serious human rights violations, particularly when such individuals enjoy impunity due to political circumstances or corrupt practices. Recently, they have been applied in the context of Russia’s war of aggression against Ukraine.

24. The 2011 Guidelines do not refer to targeted sanctions against individuals believed to be personally responsible for serious human rights violations.

25. Since 2014, PACE has called on Council of Europe member and observer States to consider adopting targeted sanctions regimes against individuals reasonably believed to be personally responsible for serious human rights violations who benefit from impunity.²⁶ Specific calls for sanctions were made in relation to the deaths of Boris Nemtsov and Alexei Navalny.²⁷

²² See “Dealing with the past for a better future - Achieving justice, peace and social cohesion in the region of the former Yugoslavia,” *op. cit.*, pp. 91-99.

²³ See PACE Resolution 2535 (2024) on “The right to freedom of information: ensuring access to historical documents,” adopted on 7 March 2024. See also Comments adopted by the CDDH on Recommendations of the Parliamentary Assembly 2272(2024), 2275(2024) and 2276(2024), 3 July 2024.

²⁴ PACE Resolution 2535 (2024), para. 4.

²⁵ See CDDH-ELI(2024)03, paras. 32-34.

²⁶ PACE Resolution 2252 (2019), “Sergei Magnitsky and beyond – fighting impunity by targeted sanctions,” adopted on 22 January 2019, para. 13. See also PACE Resolution 1966 (2014), “Refusing impunity for the killers of Sergei Magnitsky,” adopted on 28 January 2014, para. 18.

²⁷ PACE Resolution 2297 (2019), “Shedding light on the murder of Boris Nemtsov,” adopted on 27 June 2019, paras. 10 and 12; PACE Resolution 2540 (2024), “Alexei Navalny’s death and the need to counter Vladimir Putin’s totalitarian regime and its war on democracy,” adopted on 17 April 2024, para. 11.

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26. PACE has also emphasised that procedural and substantive standards must be guaranteed to ensure the credibility and effectiveness of targeted sanctions. These include:

- minimum procedural standards under the rule of law, such as the right to be promptly notified and fully informed of the allegations, the right to be heard and to be able to defend himself or herself, the right to have the decision reviewed by an independent and impartial body, and the right to compensation for any violations of rights;
- a clear definition of the grounds for imposing sanctions, supported by relevant evidence;
- a time-limited “blacklisting” procedure; and
- the availability of remedies and immediate implementation of decisions affecting the status of listed individuals or entities.²⁸

27. On the interaction between sanction measures and judicial guarantees, the Court has found violations of the right to private life and the right to an effective remedy in relation to the implementation of the sanctions regime put in place by Resolutions of the United Nations Security Council (UNSC).²⁹ The Court emphasised that member States remain obliged to protect human rights when implementing UNSC resolutions. The Court held that there is a presumption that UNSC resolutions do not create obligations that are incompatible with member States’ human rights obligations, and that any ambiguity in such resolutions must be interpreted in a manner that avoids conflict with Convention rights.³⁰ In later case law, the Court stressed that, given the serious consequences of targeted sanctions, guarantees and protection mechanisms must be put in place to avoid arbitrariness – particularly through access to judicial scrutiny.³¹

28. In the EU, the Global Human Rights Sanctions Regime, established in 2020,³² contributes to the fight against impunity. It imposes administrative sanctions with punitive effects against individuals, entities, and bodies responsible for, involved in, or associated with serious human rights violations and abuses, regardless of their geographic location. Measures include travel bans, asset freezes, and restrictions on EU persons and entities from making funds available to those listed.³³ In the context of the Russian Federation’s war of aggression against Ukraine, in March 2022, the European Commission set up the Freeze and Seize Task Force, with the aim to ensure a more effective implementation of EU restrictive measures, especially asset freezes.³⁴

²⁸ See PACE Resolution 1597 (2008), “United Nations Security Council and European Union blacklists,” adopted on 23 January 2008, para. 5.

²⁹ Nada v. Switzerland [GC], appl. no. 10593/08, 12 September 2012.

³⁰ Al-Jedda v. the United Kingdom [GC], appl. no. 27021/08, 7 July 2011, para. 102.

³¹ Al-Dulimi and Montana Management Inc. v. Switzerland [GC], appl. no. 5809/08, 21 June 2016, para. 146.

³² Council Regulation (EU) 2020/1998 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, and Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, establishing a framework for targeted restrictive measures to address serious human rights violations and abuses worldwide.

³³ European Parliament Resolution of 14 March 2019 on “A European human rights violations sanctions regime,” paras. 3, 5, and 12.

³⁴ With the support of the Seize and Freeze Task Force, the EU member States have to date frozen more than €28 billion of private assets belonging to Russian and Belarusian oligarchs and companies. See European Commission, “Holding Russia accountable.”

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