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## **Strengthening the role of the Council of Europe as a cornerstone of the European political architecture**

### **Report<sup>1</sup>**

Committee on Political Affairs and Democracy

Rapporteur: Ms Laima Liucija ANDRIKIENĖ, Lithuania, Group of the European People's Party

### *Summary*

Over the course of more than 70 years, the Council of Europe has become the largest European treaty-based organisation and has achieved remarkable progress in promoting democracy, human rights and the rule of law through its standard-setting, monitoring and co-operation activities. The thematic focus, geographic scope, and institutional set-up of the Council of Europe are unique strengths.

Large-scale aggression on the European continent, democratic backsliding, populism, and organised disinformation are just some of the current inter-related challenges to the Organisation's core objectives.

The values, principles and standards of the Council of Europe are more relevant than ever in an historic context where they are openly challenged. Member States should recommit to them at the highest political level and support the Council of Europe as the cornerstone of the European multilateral architecture. In this regard, a fourth Summit of Council of Europe Heads of State and Government should be convened, and synergies and co-operation with other European and international institutions should be advanced.

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1. Reference to committee: Doc. 14991, Reference 4485 of 27 January 2020.



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## A. Draft resolution<sup>2</sup>

1. Over the course of more than 70 years, the Council of Europe has become the largest European treaty-based organisation, promoting “unity within diversity” and achieving remarkable progress in promoting democracy, human rights and the rule of law through its standard-setting, monitoring and co-operation activities.
2. The notion of a Europe without dividing lines, at the heart of the Organisation’s pan-European project, has suffered an unprecedented setback as a result of the Russian Federation’s unlawful, unprovoked and unjustifiable aggression against Ukraine, which started in 2014 and developed into a large-scale invasion in 2022, with the illegal occupation and attempted annexation of swathes of Ukrainian territory.
3. This war of aggression, which is based on the imperialistic, anti-European and anti-humanistic ideology of the “Russian world,” comes on the heels of other challenges to democracy and security in Europe, such as democratic backsliding, populism, organised disinformation, and as a consequence lack of trust in democratic institutions.
4. The values, principles and standards of the Council of Europe are more relevant than ever in an historic context where they are openly challenged. Recalling [Resolution 2433 \(2022\)](#) “Consequences of the Russian Federation’s continued aggression against Ukraine: role and response of the Council of Europe” and [Resolution 2444 \(2022\)](#) “Recent challenges to security in Europe: what role for the Council of Europe?”, the Parliamentary Assembly reiterates that Council of Europe member States should recommit to its values, principles and standards at the highest political level. They should also give the Organisation the political, legal, technical and financial wherewithal to effectively carry out its mandate and have leverage on its member States, with a view to preventing the repetition of similar major infringements of international law and threats to peace and security.
5. To play a key role as a political community and to effectively act as the guardian of shared European values, principles and standards, the Council of Europe must be strengthened as the cornerstone of the European multilateral architecture.
6. With regards to its thematic focus, the Council of Europe plays a pivotal role in the core dimensions of the rule of law, democracy and human rights, and should remain the international standard-setter on these themes for member States. In this respect, the effective implementation of the European Convention on Human Rights (ETS No. 5) must remain the top priority for the Organisation.
7. The institutional set-up of the Council of Europe is a unique strength. Further development of a regular, meaningful and effective “trialogue” between the Committee of Ministers, the Parliamentary Assembly and the Secretary General of the Council of Europe would be important to elevate the strategic relevance and effectiveness of the Organisation. A stronger and more structured co-ordination between the monitoring activities of the various Council of Europe bodies is also needed. The Assembly and the Congress on Local and Regional Authorities should explore new ways of collaborating and contributing to enhancing the Council of Europe’s overall impact in its member States. The seminal work of numerous specialised bodies, such as that of the European Commission for Democracy through Law (Venice Commission), should continue to be used as a reference to guide reforms.
8. In advancing on these aspects, the Council of Europe should also attempt to be closer to the people, to strengthen the role and meaningful participation of civil society and national human rights institutions in its work, and to mainstream the youth dimension.
9. When considering the Council of Europe’s role in the European political architecture, the Assembly emphasises the need to advance co-operation and synergies with other European and international institutions.
10. In line with [Resolution 2430 \(2022\)](#), the Assembly reiterates its call for a renewed impetus towards strengthening the strategic partnership between the Council of Europe and the European Union. In this regard, the European Union’s accession to the European Convention on Human Rights should remain a priority, while greater convergence should be sought between the two organisations with a view to promoting common values and global governance.

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2. Draft resolution adopted unanimously by the committee on 12 October 2022.

11. While the Organisation for Security and Co-operation in Europe (OSCE) is currently facing a serious challenge, with a decision-making process based on consensus and Belarus and the Russian Federation among its participating States, it remains an important partner for the Council of Europe, with strong complementarities related to the human dimension, democratic security, conflict prevention and resolution.
12. The Council of Europe and the Organisation for Economic Co-operation and Development (OECD) should actively pursue their already fruitful co-operation on promoting social and economic progress, with the Assembly playing an active role in furthering this partnership and providing a common parliamentary forum.
13. While the focus of its mandate is on Europe, over the years the Council of Europe has progressively expanded its external relations, a policy to which the Assembly has made a major contribution. Referring to its [Resolution 2271 \(2019\)](#) “Strengthening co-operation with the United Nations in implementing the 2030 Agenda for Sustainable Development” and [Resolution 2272 \(2019\)](#) “Implementation of the Sustainable Development Goals: synergy needed on the part of all stakeholders, from parliaments to local authorities,” the Assembly reiterates that the Council of Europe should aim to forge a stronger co-operation with the United Nations system.
14. Further, the Council of Europe should support a comprehensive approach to accountability for the Russian Federation. It should play a role to ensure that perpetrators of war crimes and crimes against humanity, and possible genocide, along with the perpetrators of the crime of aggression, namely the political and military leadership of the Russian Federation, will be held to account. The Assembly recalls its [Resolution 2436 \(2022\)](#) “The Russian Federation’s aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes” and reiterates its support for the establishment of a special international tribunal for the crime of aggression against Ukraine.
15. In light of these considerations, the Assembly calls on Council of Europe member States to:
  - 15.1. give fresh impetus and political support to the Council of Europe as the cornerstone of the European multilateral architecture, and reaffirm its central role as the guardian of human rights, democracy and rule of law in Europe and as a platform for political dialogue, diplomacy and international co-operation;
  - 15.2. support the organisation of a fourth Summit of Council of Europe Heads of State and Government in order to reinforce the Organisation’s status as an unparalleled pan-European project, adapt its priorities to the new political and security situation, and clarify its role in the overall European political architecture;
  - 15.3. support the further development of Council of Europe work in the area of democratic security, as well as the development of an effective response to the most urgent threats to democratic practices, including by considering the adoption of new binding instruments and recommendations;
  - 15.4. provide political support to the European Union’s accession to the European Convention on Human Rights;
  - 15.5. support the International Criminal Court Prosecutor in his task of investigating and prosecuting suspected perpetrators of war crimes, crimes against humanity and, possibly, genocide, by providing political support and adequate human and financial resources and by making available any evidence in their possession;
  - 15.6. urgently set up a special international tribunal to investigate and prosecute the crime of aggression allegedly committed by the political and military leadership of the Russian Federation in Ukraine, with support to be provided by the Council of Europe, the European Union and other international organisations;
  - 15.7. consider new initiatives to support Russian human rights defenders, democratic forces, free media and independent civil society respecting the values and principles of the Council of Europe, including the territorial integrity of sovereign member States;
  - 15.8. support the Belarusian human rights defenders, democratic forces, free media and independent civil society respecting the values and principles of the Council of Europe, including the territorial integrity of sovereign member States;
  - 15.9. support and contribute to establishing a special international tribunal for crimes against humanity committed against the Belarusian people.

16. The Assembly calls on the European Union to:
  - 16.1. regularly take into account the Council of Europe's role in standard-setting in the areas of democracy, human rights and rule of law, to promote these standards as appropriate and to participate constructively in inter-governmental negotiations at the Council of Europe on the development of new ones;
  - 16.2. regularly take into account the Council of Europe's role as the benchmark for democracy, human rights and the rule of law in Europe while preparing and implementing initiatives in these fields;
  - 16.3. intensify political dialogue with the Council of Europe in the area of the rule of law and to make greater use of the Council of Europe's expertise, benchmarking and findings in the context of the wide range of existing European Union mechanisms and tools regarding the rule of law;
  - 16.4. pursue with resolve the negotiations aimed at achieving the accession of the European Union to the European Convention on Human Rights;
  - 16.5. examine, in consultation with the Council of Europe, the possibility for the European Union to accede to other key Council of Europe conventions which tackle the major challenges facing European societies, including the European Social Charter (revised) (ETS No. 163);
  - 16.6. engage in a dialogue with the Council of Europe with a view to maximising synergies and complementarities between the Council of Europe and the newly established European Political Community.
17. As regards its own activities, the Assembly should:
  - 17.1. enhance co-operation on deep/soft security matters, confidence building and conflict prevention with other international parliamentary assemblies, including the European Parliament, the OSCE Parliamentary Assembly and the North Atlantic Treaty Organization (NATO) Parliamentary Assembly;
  - 17.2. consider evaluating its co-operation agreements with various international parliamentary assemblies or organisations with a view to possibly updating them and enhancing their effectiveness;
  - 17.3. in the context of the Council of Europe's overall reflection on monitoring, review its procedure relating to the monitoring of obligations and commitments by member States;
  - 17.4. consider what role it could play in the Council of Europe's response to the most urgent threats to democracy and democratic security, including by providing political support and generating new ideas for the development of new binding instruments and recommendations.

## B. Explanatory memorandum by Ms Laima Andrikienė, rapporteur

### 1. Introduction

#### 1.1. Origin and reference points

1. Already in 2017, the Parliamentary Assembly called for a Council of Europe summit with the aim of reaffirming European unity and of defending and promoting democratic security in Europe ([Resolution 2186 \(2017\)](#)). The Assembly then referred to the profound changes in Europe and numerous political challenges, both within and outside Europe's borders, that were threatening the continent and its unity. Against this background, the Assembly expressed its belief that the Council of Europe and the values it upholds were now more necessary than ever. It also called for the preservation and further strengthening of the unparalleled pan-European project, that was currently threatened by divisions and a weakening of the commitment of member States.<sup>3</sup>
2. Relevant questions relating to the role of the Council of Europe and its place in the European political architecture were later addressed *inter alia* in Assembly [Resolution 2277 \(2019\)](#) and [Recommendation 2153 \(2019\)](#) "Role and Mission of the Parliamentary Assembly: main challenges for the future"; [Resolution 2369 \(2021\)](#) and [Recommendation 2199 \(2021\)](#) "The Assembly's vision on the strategic priorities for the Council of Europe"; and [Resolution 2430 \(2022\)](#) and [Recommendation 2226 \(2022\)](#) "Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union".<sup>4</sup>
3. On 4 November 2021 the Committee on Political Affairs and Democracy considered a revised outline for report, when Mr Andreas Nick (Germany, EPPCD) was still rapporteur.
4. On 1<sup>st</sup> February 2022, the Committee appointed me as rapporteur.

#### 1.2. Purpose and scope

5. The report focuses on the following objectives: 1) to underline the unique profile, characteristics and strategic priorities of the Council of Europe; 2) to consider the role of the Council of Europe through three pillars – thematic focus, geographic scope, institutional governance – by underscoring the need to make an even progress on all these pillars; 3) to present the potential co-operation and synergies with, and the need to take into account and refer to the work of, other European institutions, such as the European Union and the Organization for Security and Co-operation in Europe (OSCE), both being proactive in the traditional domains of the Council of Europe.
6. The report is based on the premise that the Council of Europe and other European institutions should not be more of the same and should not compete between themselves. Therefore, the report seeks to define a clear profile of the Council of Europe and to provide a vision on a clear division of responsibilities between the Council of Europe and other European institutions along the dimensions of law, security and economic prosperity. For this purpose, the focus for the Council of Europe, including a better definition of its role and key advantages in comparison with the EU and the OSCE, should be clarified, in order to maintain a very specific profile of the Council of Europe in the concert of European organisations and to avoid overlapping and double standards.
7. Although many of the new challenges, issues and tasks for the Council of Europe are accurately defined in the above-mentioned reference documents (in particular in Mr Tiny Kox's report of 2021), this report takes account of the developments of an unprecedented nature brought about by the large-scale war of aggression launched by the Russian Federation, with the assistance of the Belarus regime, against Ukraine on 24 February 2022. As a consequence, the Russian Federation was excluded from the Council of Europe on 16 March 2022.<sup>5</sup> In addition, the Council of Europe suspended relations with the Belarus authorities on 17 March 2022.<sup>6</sup> These developments constitute an impetus for reconsidering the current mission of the Council of Europe and adapting it to the new reality, including the need to evaluate and acknowledge the lessons learned.

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3. See [Doc. 14396](#) (rapporteur: Mr Michele Nicoletti, Italy, SOC).

4. See [Doc. 14863](#) and [Doc. 15252](#) (rapporteur: Mr Tiny Kox, Netherlands, UEL); and [Doc. 15495](#) (rapporteur: Mr Titus Corlăţean, Romania, SOC).

5. CM/Res(2022)2.

6. CM/Del/Dec(2022)1429/2.5.

### 1.3. General context

8. The Council of Europe is the oldest organisation of the European political architecture, established in 1949. The mission of the Council of Europe, as enshrined in its Statute, is “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). This aim “shall be pursued through the organs of the Council by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms.” (Article 1.b). “Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms and collaborate sincerely and effectively in the realisation of the aim of the Council” (Article 3).

9. Thus, the uniqueness of the Council of Europe, being a natural guardian of “unity within diversity”, lies in its statutory mandate to bring together European States in order to promote their progress on the basis of common values and principles, such as the rule of law, pluralistic democracy and human rights.

10. Over the course of more than 70 years of its activities, the Council of Europe has become the largest European treaty-based organisation and has achieved remarkable progress in pursuing its aim by promoting co-operation on social, cultural, scientific and legal matters. It succeeded in establishing the legal *acquis* as the basis of the European democratic public order and a common legal space, which consists of more than 220 legally binding instruments. Some of these instruments have encouraged global standard-setting, as many conventions belonging to the unique European conventional system are open to non-member States and are also used as an inspiration in drafting other conventions and national legislation. The core of the European legal *acquis* is the European Convention on Human Rights (ETS No. 5) and the European Social Charter (ETS No. 35).

11. Under the European Convention on Human Rights, the most effective system for human rights protection, with the European Court of Human Rights at its core, has been established. The uniqueness of the European conventional system is also that implementation of several other conventions is monitored, including by independent experts, and States parties are supported in overcoming any shortcomings. In addition, an authoritative expert body such as the European Commission for Democracy through Law (the Venice Commission) provides advice and guidelines for constitutional and legal reforms in member States and those non-member States who are willing to participate in these bodies.

12. Apart from the main achievements, one cannot escape from mentioning the failure of the Council of Europe to create a Europe without dividing lines, which may challenge the very vision of the Council of Europe as the pan-European project. Recently, new dividing lines have appeared due to the unprecedented attack on European values by Russia, which is the main challenge to European and global security. Thus, the Council of Europe has to take its part of political responsibility for not being able to respond timely and effectively to the rise of aggressive policy and authoritarianism in Russia, in particular for the inability to monitor the development of the imperialistic, anti-European and anti-humanistic ideology of the “Russian world”, based on ideas of national superiority and national hatred. In parallel, this ideology is also rooted in discrimination on the grounds of gender, sexual orientation and identity, regardless of the 26 years-long Russian membership in the Council of Europe.

13. In order to restore and maintain its credibility, the Council of Europe should learn lessons from this failure. It should return to its core values, with an understanding that they cannot be undermined by a less-than-principled stance towards aggressive and authoritarian regimes for the sake of multilateralism and the settlement of financial problems. The values, principles and standards of the Council of Europe are more relevant than ever in the current historic context when they are openly flouted. Member States should recommit, at the highest political level, to these values, principles and standards, and give the Organisation the legal, political and moral authority to effectively promote human rights, democracy and the rule of law. They should also give the Council of Europe the budgetary means to carry out its mandate and protect it against financial blackmailing.

14. Thus, the statutory mission of the Council of Europe is far from complete. It faces such key inter-related challenges to its core objectives, as large-scale aggression on the European continent, growing authoritarianism and political populism, hybrid attacks using illegal migration and disinformation campaigns, rise of hostility towards pluralistic democracy as well as pandemics and other crises. In order to respond effectively to these challenges and to remain the guardian of the common European values, the Council of Europe has to be strengthened as one of the pillars of the European political architecture.

## **2. Strengths and pillars of the Council of Europe**

### **2.1. Thematic focus**

15. The Council of Europe has a unique profile in the core dimensions of the rule of law, pluralistic democracy and human rights. Therefore, the Council of Europe's overall priority is to remain the pillar of democratic security and successful and effective co-operation on these issues in Europe and worldwide.

16. The implementation of the European Convention on Human Rights in all member States must remain the top priority for the Council of Europe, as the Convention embodies the founding values of the Organisation. This priority requires the continuous engagement of all member States at national level and the preservation of the authority of the European Court of Human Rights as a remedy of last resort for the majority of Europeans. The unconditional execution of all the Court's judgments, as well as of its interim measures under Rule 39 of its Rules, must be ensured.

17. The next priority of the Council of Europe is the promotion of the further ratification of (accession to) the Revised European Social Charter (ETS No. 163) and its Additional Protocol Providing for a System of Collective Complaints (ETS No. 158). Already in 2005 at the Warsaw Summit, the Heads of State and Government considered that the Revised European Social Charter should be regarded as the minimum core of social rights which all member States should guarantee.

18. No less an important priority for the Council of Europe is the promotion of genuine equality and respect for human dignity and combating discrimination on any grounds. The Organisation must continue to contribute actively to achieving these goals, as this effort would be one of the best responses to the rise of political populism and ideas based on hostility towards the European values. Ground-breaking conventions, such as the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "the Istanbul Convention"), the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "the Lanzarote Convention") and the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) have become global "gold" standards and their efficient implementation must remain a key priority.

19. The Council of Europe must be more proactive in facing and addressing existing and emerging threats to democratic societies and democratic security, which are related to the rise of political populism and the authoritarian trends in some member States, both old and new democracies. Not only the strengthening of the monitoring system, but also the studies on the identification of the root causes for and prevention of unhealthy political populism, democratic backsliding and authoritarianism should be encouraged.

20. As a recognised international standard-setter in the field of human rights protection, the Council of Europe should keep pace with the speed and scale of societal change and focus on devising common replies and establishing new standards to protect human rights vis-à-vis new and evolving challenges. In particular, the Council of Europe is the appropriate framework for providing adequate responses to challenges related to the emergence of new technologies, especially artificial intelligence, as well as the challenges related to the spread of organised disinformation. The Council of Europe should also focus on the new generation of human rights and notably on making the right to a safe, healthy and sustainable environment become a principle, not just a policy. Last but not least, the Council of Europe must continue to keep high on its strategic agenda the search for common responses to societal problems challenging the rule of law, such as corruption, money laundering, terrorism and violent extremism.

### **2.2. Geographic scope**

21. The Council of Europe provides a unique forum for co-operation on equal footing between all European States, whether or not they wish to become members of the European Union, which is based on the commitment to common values and serves as a tool for finding responses to common challenges. Currently, the Council of Europe can explore its full potential for an inclusive and meaningful dialogue of 46 member States. First and foremost, in this sphere the Council of Europe must accordingly adapt its understanding of the existing threats to democratic security, following the Russian Federation's large-scale war of aggression as well as other international crimes attributable to the authoritarian regimes of Russia and Belarus.

22. Against this background, the Council of Europe has to be ready to provide all possible assistance within its mandate to Ukraine and other countries affected by the aggression, as well as for the eventual reintegration of the Ukrainian, Georgian and Moldovan territories that are currently under Russian occupation.

23. Regardless of the failure in the search for an inclusive and meaningful dialogue with the Russian Federation and its exclusion from the Council of Europe, the ambition to become a true pan-European organisation that brings together all the European States cannot be left aside. The strategic vision of the Council of Europe should remain the common European space of democratic public order with no black holes. Therefore, one of the key priorities of the Council of Europe should be new initiatives in order to continue the support for the future democratic Russia, in particular the engagement with human rights defenders, democratic forces, free media and independent civil society.

24. It is no less important to support the democratic and civil society forces, human rights defenders and free media in Belarus whose authoritarian regime has become an accomplice in Russia's aggression against Ukraine and European democratic values. In particular, assistance should continue to be given to help the efforts of the democratic Belarus forces to develop a vision of constitutional and other legal reforms aimed at the restoration of the rule of law and democratic constitutional order. In this field the expertise of the Venice Commission would be particularly welcomed.

25. Ensuring accountability for all international crimes, and the crime of aggression in particular, is an essential precondition for peace based on the respect to the rule of law, pluralistic democracy and human rights. Therefore, the Council of Europe should support the establishment of a special international tribunal for the crime of aggression against Ukraine, in line with Assembly [Resolution 2436 \(2022\)](#).<sup>7</sup> The jurisdiction of the special international tribunal should support and complement the work of the International Criminal Court (ICC), avoiding any duplication of jurisdiction, since the latter has the jurisdiction in respect of war crimes, crimes against humanity and possibly a crime of genocide committed on the territory of Ukraine. It should assess the planning, preparation, initiation and execution of the crime of aggression committed against Ukraine, including its ideological origins and roots, and taking into account previous acts of aggression against other countries. Those primarily responsible – the highest political and military leadership of the Russian Federation, as well as the highest political and military leadership of the Belarus regime, who have provided logistical and other assistance to Russia for perpetrating acts of aggression against Ukraine – should be held to account by the proposed Tribunal. Upon a request from Ukraine, the Council of Europe could take a lead in drafting and opening for signature a multilateral treaty establishing the Special International Tribunal.

26. In addition, the Council of Europe should support public initiatives and, if necessary, take a lead in establishing a special international tribunal for the crimes against humanity committed by the Belarussian authoritarian regime against the people of Belarus, including widespread and systematic torture, imprisonment and other severe deprivation of physical liberty in violation of the fundamental rules of international law, persecution of identifiable groups and collectivities on political, national and ethnic grounds. Currently, no international tribunal has jurisdiction in respect of these crimes and, due to the absence of independence, the Belarussian judiciary and law enforcement authorities are not able to investigate the crimes committed by Lukashenko's regime. On the contrary, they are used as a tool for the committal of these crimes.

27. In the pursuit of the pan-European vision, the Council of Europe should continue to co-operate with Kosovo\*<sup>8</sup> with a view to consolidating the rule of law, human rights and democracy in line with Council of Europe standards. Kosovo's application for membership in the Council of Europe of 12 May 2022 is a clear sign of its willingness to move forward with resolve on the European integration path and should be considered with an open spirit.

28. The unique conventional system of the Council of Europe and the experience of such authoritative expert bodies as the Venice Commission allow for the Council of Europe to strengthen its role at global level as the leading standard-setter in the fields of the rule of law, democracy and human rights. The Council of Europe should engage more actively in promoting the global outreach of its legal instruments, many of which have played a pioneering role, for instance on the relevant international platforms such as the United Nations. The Council of Europe should bypass the "geographical neighbourhood" logic by seeking partnerships with States and organisations sharing the same or similar values and principles. The opportunity to involve more observers also must be considered.

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7. [Resolution 2436 \(2022\)](#) uses the term "ad hoc international criminal tribunal". This report uses the term "Special International Tribunal", in line with the proposal of the Ukrainian authorities, but it should be understood to be the same proposed tribunal as that of [Resolution 2436 \(2022\)](#).

8. \*Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

### **2.3. Institutional governance**

29. The further development of a regular, meaningful and effective 'trialogue' between the two statutory organs, the Committee of Ministers and the Parliamentary Assembly, and the Secretary General should be considered as a means of ensuring the strategic relevance and the effectiveness of the Organisation.

30. The unique nature of the Council of Europe stems also from its parliamentary statutory organ composed of members from national parliaments, reflecting the whole spectrum of political views, including the opposition. This must be used to the benefit of the whole Organisation when identifying priorities for the years ahead, as the Assembly can provide a significant contribution to all the priority areas of the Organisation. The Assembly is capable of serving as an effective instrument for the promotion of the key conventions of the Council of Europe in national parliaments with a view to increasing the impact of these instruments on national legislative and political processes. Its role as a political platform for parliamentary diplomacy can be further enhanced; similarly, the Assembly can play a more significant role in promoting and strengthening the efforts of the Committee of Ministers on the execution of judgements of the European Court of Human Rights. In addition, the functions of the Assembly in electing judges of the European Court of Human Rights and the Secretary General gives a higher level of legitimacy for these institutions.

31. A no less significant field of inter-institutional co-operation is the monitoring of member States' obligations and commitments, as it constitutes an extremely important means of ensuring, through co-operative action, that all member States comply with their obligations willingly agreed to when joining the Council of Europe. However, there is a need for stronger and more structured co-ordination between the monitoring activities of the Assembly, the activities of the Committee of Ministers, the Secretary General and the Commissioner for Human Rights, as well as of the various specialised monitoring and advisory bodies and mechanisms of the Organisation, without prejudice to their independence. The number of countries which, decades after joining the Council of Europe, are still under the Assembly's monitoring procedure and the evident failure to have an impact on the Russian Federation show that the current system must be reviewed. More broadly, it is worth considering ways of co-ordinating monitoring activities more efficiently with other international organisations, including the United Nations, in order to achieve more synergy, avoid unnecessary duplication and alleviate the reporting burden for member States.

32. The need to bring the Organisation closer to the people should be placed among the outstanding priorities of the Council of Europe, including strengthening the role and meaningful participation of civil society organisations and national human rights institutions in the work of our Organisation and engaging with young people and children. These measures would be also helpful in facing such challenges as the rise of political populism and hostile attitudes towards democracy, as they would increase the visibility of what membership of the Organisation means, both in terms of advantages for the member States and their citizens, as well as the obligations of all member States. In this field the Council of Europe can rely on the recent experience of the European Union with regard to the Conference on the Future of Europe.

## **3. Council of Europe in the European institutional landscape**

### **3.1. European Union**

33. The European Union and the Council of Europe share, and are built upon, the same values of the rule of law, pluralistic democracy and human rights. Although the post-Lisbon expansion of the European Union's activities into areas covered by the statutory mandate of the Council of Europe and touching upon democracy, human rights and the rule of law can create risks of overlapping and unnecessary duplication of work, the EU is unlikely to cover the whole geographic area of the activities of the Council of Europe (currently 19 members of the Council of Europe do not belong to the European Union). Nor is it the purpose of the European Union, which aims, *inter alia*, at deeper integration in developing a common area of freedom, security, justice and free movement of persons as well as of an internal market. Fundamental rights, as guaranteed by the European Convention on Human Rights and as they result from the constitutional traditions common to the EU member States, are considered to be the general principles of the Union's law (Article 6.3 of the Treaty on European Union).

34. This provides the basis of synergy between the two European organisations. The Council of Europe's unique conventional system is one of the main strengths and a comparative advantage of the Organisation. It can serve as a point of departure for the European Union in enhancing the human rights protection in the overlapping areas. However, in order to complete the common European legal space, the European Union's accession to the European Convention on Human Rights (as well as to the European Social Charter system)

has to remain among the strategic priorities of the Council of Europe. As a result of the European Union's accession, individuals will be able to lodge applications with the European Court of Human Rights also in respect of acts attributable to the European Union, not only to its member States.

35. In addition, the experience and expertise of the Council of Europe can be further utilised in strengthening the rule of law in the EU member States. The Venice Commission's opinions, the Group of States against Corruption (GRECO) reports, the judgments of the European Court of Human Rights and the Committee of Ministers' decisions have been regularly used by various EU bodies, particularly the European Parliament and the European Commission. The role of the Venice Commission must be highlighted in coping with the rule of law issues in accordance with Article 7 of the Treaty on the European Union and in assessing the progress made in the field by the candidate countries during the EU enlargement process.

36. Among the recent challenges, the need for further synergy of the Council of Europe and the European Union in the context of a new Pact on Asylum and Migration should be mentioned, in particular coping with such a hybrid threat caused by the authoritarian regimes as the artificial migration flows to neighbouring democratic States. The purpose of the co-operation in this sphere is to preserve the standards developed by the system of the European Convention on Human Rights as well as to develop humane, more resilient and more effective national systems of migration and asylum. Furthermore, the European Union and the Council of Europe should engage in a dialogue with a view to maximising synergies and complementarities between the Council of Europe and the newly established European Political Community, which brings together 43 out of the 46 Council of Europe member States.

37. On 21 May 2021, at its 131<sup>st</sup> session, the Committee of Ministers adopted the Report on co-operation between the Council of Europe and the European Union, thereby underlining that both sides have stressed their commitment to consolidating their relationship for better safeguarding democratic security on the continent and a coherent and efficient human rights protection system in Europe. The strategic partnership with the European Union based on complementarity and mutual respect for each organisation's unique characteristics and mandates was reinforced through its three pillars – political dialogue, legal co-operation, and programmatic co-operation. As provided by the Memorandum of Understanding between the Council of Europe and the European Union already in 2007, "legal co-operation should be developed with a view to ensuring coherence between EU law and Council of Europe standards". Meanwhile, fruitful operational co-operation of the Council of Europe with the EU Agency for Fundamental Rights, on the basis of their respective mandates, strengths and skills, remains of the utmost importance.

38. In addition, the need to establish an effective strategic partnership between the Parliamentary Assembly and the European Parliament should be underlined. To this end, in its [Resolution 2430 \(2022\)](#) "Beyond the Lisbon Treaty: strengthening the strategic partnership between the Council of Europe and the European Union" the Assembly indicated a number of concrete ways to implement closer co-operation. The need to rely on the Assembly's expertise in the field of Magnitsky sanctions should also be underscored.

### **3.2. OSCE**

39. The Organization for Security and Co-operation in Europe (OSCE) is another important partner of the Council of Europe. This Organisation has been and still is deemed to be a forum of dialogue between East and West on the issues of common security, which is built upon consensus. The OSCE focuses on the wider scope of co-operative security, including hard security, confidence-building and armaments control, while the Council of Europe focuses on the narrower spectrum of security issues, but to a deeper extent, including the emphasis on the rule of law. In addition, the OSCE comprises not only member States of the Council of Europe, but also has the transatlantic dimension (the Northern American member States) and includes the Central Asian member States, Belarus and the Russian Federation.

40. This provides a good basis for the delimitation of competences between the two organisations as well as for their synergy in the common focus on democracy and human rights. On the one hand, the Council of Europe's standards may continue to serve as guidelines for the less stringent OSCE standards. In addition, the OSCE can serve as the bridge to the Central Asian States with a view to the gradual implementation of the Council of Europe's standards. On the other hand, the Council of Europe can rely on the internationally recognised OSCE expertise in the field of electoral observation (conducted under the guidance of the OSCE Office of Democratic Institutions and Human Rights (ODIHR)) and the OSCE special monitoring missions in crisis regions.

41. In the light of the current context, the OSCE is confronted with daunting challenges, due to its membership which includes Belarus and the Russian Federation – two countries pursuing aggressive policies and committing international crimes – and its consensus-based decision-making processes.

42. The OSCE mechanisms for the control of armaments and conventional forces failed more than a decade ago. Recently, the mandate of the OSCE special monitoring mission to Ukraine was not extended. There is no guarantee of the further smooth deployment of the electoral observation missions, namely the OSCE activities in the common field with the Council of Europe. The adoption of the operational budget has also become an issue.

### **3.3. Other organisations**

43. Among other organisations, with whom the Council of Europe should extend the co-operation in promoting social and economic progress and fighting corruption and money-laundering, the Organisation for Economic Co-operation and Development (OECD) has a special place. The updated Memorandum of Understanding of 2020 aims to give new impetus to the long-standing co-operation between the two organisations. The close working relationship between the Council of Europe and the OECD has notably resulted in the joint Convention on Mutual Administrative Assistance in Tax Matters (ETS No. 127), a legally binding international treaty which now covers 111 countries around the world.

## **4. Way Forward**

44. The Council of Europe, as the oldest European organisation based on the common values of the rule of law, pluralistic democracy and human rights, inevitably has to remain a cornerstone of the European political architecture and a recognised international standard-setter in the field of democratic security. This unique role can ensure synergy with another European organisations, including the EU and the OSCE, and global actors with a clear delimitation of competences and without duplication.

45. However, due to the new reality that emerged following the large-scale war of aggression against Ukraine, there is a need to reaffirm and strengthen the role of the Council of Europe as a unique platform for constructive and stronger political dialogue and co-operation, to adapt to the new situation and to find innovative ways to achieve its statutory goals and maximise its contribution to European unity, equality, stability and security.

46. The Council of Europe should be strengthened as a global actor and the leading institution aimed at safeguarding and upholding the values and principles of the rule of law, pluralistic democracy and human rights. Based on its unique human rights protection and conventional system, its member States should strengthen the role of the Council of Europe as a reference for other European and international institutions.

47. In the current global and regional security environment, there is also the need for renewed commitment to the common values on the part of member States. This can be done *inter alia* by means of the effective implementation of relevant legal instruments and mechanisms or by establishing new ones, if appropriate.

48. The Council of Europe's overall monitoring system should be reviewed with the perspective of avoiding duplication between the various bodies of the Council of Europe and with other regional and global institutions and to enhance its effectiveness. In any monitoring system the genuine equality of member States has to be guaranteed, by avoiding double standards and ensuring that the commitments to European unity are not overshadowed by political cleavages.

## **5. Conclusions and proposals**

49. In order to further strengthen the Council of Europe and maintain its status as an unparalleled pan-European project, a fourth Summit of Heads of State and Government should be convened. Among other possibilities, the Summit would offer a fresh and timely opportunity to respond effectively to the current challenges, by adapting the Organisation to the new political and security situation and clarifying its role in the overall European political architecture.

50. The Council of Europe should develop an effective response to the most urgent threats to democratic societies and democratic security, such as unhealthy political populism, democratic backsliding and authoritarianism. It should do so by considering the adoption of new binding instruments and recommendations, while improving existing ones, as well as by enhancing the monitoring and sanction mechanisms. The organisation should consider the organisation of public, Europe-wide campaigns on these instruments and recommendations. Similar efforts should be undertaken to address challenges related to the emergence of new technologies, especially artificial intelligence and the spread of organised disinformation.

The Venice Commission should also be supported to continue to progressively develop common constitutional and democratic standards, which will help address current and future challenges to democracies in Europe.

51. Playing to one of its strengths, the Council of Europe should continue leading the way in human rights standard-setting and reinforce its unique convention system, including the most authoritative international human rights court, the European Court of Human Rights. In this respect, with a view to achieving a single common European legal space, the Council of Europe should remain engaged in a constructive dialogue with regard to the accession of the European Union to the European Convention on Human Rights. European Union accession to the European Social Charter system should also be promoted.

52. Further progress on putting an end to gender-based discrimination, including through the widest possible ratification and implementation of the Istanbul Convention, and to discrimination based on sexual orientation and identity, in particular in the field of protection of private and family life, are also potential areas of focus.

53. To increase efficiency in its activities, the Council of Europe should promote a constructive dialogue between its institutions as well as with other European and global organisations, in particular in the field of monitoring activities, so as to avoid unnecessary duplication and overlapping.

54. Following the latest aggression, the Council of Europe acted swiftly to ensure that the Russian Federation would no longer be a member State. This important change in its membership gives the Organisation more coherence. In this vein, the Council of Europe should stand ready to undertake a greater share of responsibilities if other international organisations are no longer able to carry them forward due to the political fracture caused by the aggression, including in areas such as soft security, democratic security and election observation.

55. The Council of Europe should develop clear plans and mechanisms to support democratic civil society, independent non-governmental organisations, human rights defenders and free media in Russia and Belarus. The Assembly should undertake a special report, and develop targeted recommendations on this topic.

56. Finally, the Council of Europe should do its utmost to ensure punishment for international crimes committed against Ukraine and its people as well as against the Belarusian people. In this respect, the Organisation should unconditionally support the ongoing investigations on war crimes, crimes against humanity and possibly genocide committed against the Ukrainian people. The Council of Europe should also support, contribute to and, when necessary, take the lead in establishing a special international tribunal for the crime of aggression against Ukraine and a special international tribunal for crimes against humanity committed against the Belarusian people.