



Resolution 2559 (2024)¹

Reparation and reconciliation processes to overcome past conflicts and build a common peaceful future: the question of just and equal redress

Parliamentary Assembly

1. The Parliamentary Assembly regrets the sad reality that wars and violent conflicts cause great human suffering as well as the destruction of property, homes and the environment.
2. The Assembly emphasises that negotiations and processes seeking to address the damage caused by conflict and move towards reconciliation are crucial for achieving lasting peace by using relevant tools under international law, tools which may vary depending on the context and may include truth-seeking initiatives, justice, reparations, recognition and guarantees of non-repetition. However, such processes often do not lead to adequate results due to a lack of an acceptable, achievable, enforceable and implementable package of measures to promote reconciliation and redress following a conflict. This can create a feeling of injustice which can, in turn, perpetuate conflict or even lead to a resumption of hostilities.
3. The Assembly recalls the terms of the preamble to the Statute of the Council of Europe (ETS No. 1, “the Statute”), which stipulates that the States parties are “[c]onvinced that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation”. The Organisation is thus well placed to promote solutions to foster justice, co-operation and peace in Europe.
4. The Assembly notes that problems persist, notwithstanding the existing tools at the disposal of the Council of Europe to facilitate finding solutions to post-conflict disputes – including through political discourse within the Assembly and within the Committee of Ministers, and through the jurisdiction of the European Court of Human Rights. Such tools often do not provide an adequate, enforceable and timely response to the challenges of disputes between member States, particularly following a conflict.
5. The Assembly reiterates the important role that courts can play in finding just solutions, while regretting that courts often lack jurisdiction, for example due to the doctrine of State immunity; that they are unable to fully address the overall complexity of the problem, for example due to their remit or the limits of the available remedies; or that their judgments are not enforced. Even the European Court of Human Rights is a limited tool for achieving reconciliation and reparation following a conflict, given that its remit is restricted to specific human rights violations, that it has a limited range of remedies available to it and that there are difficulties in enforcing, in particular, just satisfaction judgments in interstate cases. There is thus a strong case for a more effective and more adaptive mechanism for resolving interstate disputes following a conflict between Council of Europe member States, and for improving the enforcement of any awards.
6. The Assembly recognises that the topic of reparation and reconciliation in post-conflict situations can be a highly sensitive matter requiring careful political as well as legal expertise, in order to find solutions that are fair; respect the principles of the rule of law, justice and human rights; promote truth and reconciliation; and safeguard peace. Any approach needs to be firmly based on the principle of State responsibility under international law. The Assembly also insists that it is particularly important that victims and other affected

1. *Assembly debate* on 26 June 2024 (20th sitting) (see [Doc. 15933](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Lord Richard Keen; [Doc. 16019](#), opinion of the Committee on Political Affairs and Democracy, rapporteur: Mr George Loucaides). *Text adopted by the Assembly* on 26 June 2024 (20th sitting).

See also [Recommendation 2281 \(2024\)](#).



groups, as well as State actors, are involved in the process of finding adequate solutions that best respond to the needs of those affected. The Assembly underlines the importance of striving to find an acceptable, achievable, enforceable and implementable package that is well adapted to the context of a particular situation.

7. The Assembly firmly believes that there is therefore a strong case for more action by the Council of Europe, through a mediated process under the auspices of the Organisation, to help to address the conflicts of the past and to promote reconciliation and reparation in relation to conflicts between Council of Europe member States. It is only by addressing these issues that States can move forward towards peaceful co-operation in the future and thus establish better “upstream” tools to prevent future conflicts. Such an initiative by the Council of Europe would help to fill a lacuna in the rules-based international order, to make the most of the Organisation’s unique role and to promote regional peace.

8. The Assembly considers that a mediated solution could help States look holistically at resolving highly complex matters between them by involving a neutral third party in finding solutions. In particular, a mediated solution might stand a better chance of securing greater buy-in from States and victims and thus a greater chance of being enforced. A mediator could be chosen from a panel of international mediators or conciliators, perhaps from former secretaries general of the United Nations or the Council of Europe, or judges of international renown. Mediated solutions must be achievable, enforceable and implementable.

9. The Assembly considers that a mediation process under the auspices of the Council of Europe should include the following elements:

9.1. a system should be established to enable member States to submit disputes concerning reparations and remedies to mediation;

9.2. the mediation mechanism should avoid duplication of, or conflict with, any other existing processes and should not be used to bypass or undermine such processes, including in the framework of the United Nations, as well as the procedures before, and the implementation of judgments of, the European Court of Human Rights;

9.3. the Committee of Ministers, the Parliamentary Assembly or the Secretary General of the Council of Europe should be able to initiate this mediation process in the absence of consent by both parties. In the case of the Assembly this could be through a recommendation;

9.4. the process should apply to matters within the geographic and temporal limits of the Council of Europe. It should only apply to conflicts between States that were not members of the Council of Europe at the relevant time with their express consent. Moreover, for reasons of enforceability, it should not apply to States that are no longer members of the Council of Europe;

9.5. this system should be available for interstate disputes relating to post-conflict situations or other disputes that risk escalating into tensions;

9.6. this process should also be available to identify a package of reparations and remedies in relation to interstate cases before the European Court of Human Rights, where a given case could benefit from a wider range of tools for proposing solutions that are better adapted to addressing the complexities of post-conflict situations and the needs of victims;

9.7. the approach should be victim centred, involving consultation with victims and other affected groups as well as with the States concerned;

9.8. there should be an obligation on member States to engage in a mediation process in good faith. As a matter of propriety, policy and principle, member States should co-operate with the Council of Europe to resolve issues that have an impact on the human rights of individuals. This is implicit in the general obligation of States to collaborate sincerely and effectively and to co-operate in good faith, as well as in the specific obligations under the European Convention on Human Rights (ETS No. 5, “the Convention”). In particular, the nature of collective enforcement under the Convention implies an obligation of co-operation between States. There should thus be potential repercussions for a State that is considered not to have engaged in the mediation process in good faith;

9.9. there should be a duty on States to co-operate sincerely with the results of mediation and there should be potential consequences for unreasonable failure to do so;

9.10. to a large extent, such a mediation process could be achieved using the existing legal tools at the disposal of the Council of Europe, such as the Statute and the European Convention on Human Rights, and ways of working within the framework of those founding instruments, in addition to political and diplomatic pressure using tools at the disposal of the Council of Europe. In a serious case of non-

compliance by a member State, use of the complementary joint procedure could be considered, as well as potential suspension where a breach would constitute a serious violation of Article 3 of the Statute of the Council of Europe (namely a serious violation of the principles of the rule of law, human rights and sincere and effective collaboration in the realisation of the aims of the Organisation);

9.11. the Council of Europe should develop an improved toolkit and standards for reparation and reconciliation in order to find solutions that are best adapted to addressing the complexities of a post-conflict situation. Such a toolkit should be non-exhaustive and adaptable to new situations, should avoid a one-size-fits-all approach and should instead offer a number of ideas for potential use in mediated solutions.

10. The Assembly strongly calls on member States to:

10.1. accept the compulsory jurisdiction of relevant international tribunals such as the International Court of Justice in order to facilitate the peaceful resolution of disputes between member States;

10.2. ratify the European Convention for the Peaceful Settlement of Disputes (ETS No. 23), as a useful tool for the settlement of disputes, whether through recourse to the International Court of Justice, the use of conciliation or recourse to arbitration;

10.3. take all necessary action to establish a functional system of mediation to help resolve disputes between member States by peaceful and democratic means, with full respect for human rights and the rule of law, and with the involvement of those affected by a conflict situation, including victim groups.