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

Reply to Recommendation¹: Recommendation 2281 (2024)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly [Recommendation 2281 \(2024\)](#) “Reparation and reconciliation processes to overcome past conflicts and build a common peaceful future – the question of just and equal redress”, which it has forwarded to the Committee of Legal Advisers on Public International Law (CAHDI), the Steering Committee for Human Rights (CDDH) and the Steering Committee on Democracy (CDDEM) for information and possible comments.
2. The Committee of Ministers, referring to the Statute of the Council of Europe and recalling that the “pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation”, took note of the Parliamentary Assembly’s reflection process aiming at improving effective action for achieving reconciliation and reparations in relation to conflicts between member States.
3. The Committee notes that whilst the Parliamentary Assembly’s proposals foresee a presumably non-judicial mediation process for interstate disputes, such situations are currently addressed within the Council of Europe mainly through either political approaches, notably in the Committee of Ministers and the Parliamentary Assembly, or under the interstate procedure before the European Court of Human Rights (the Court) under Article 33 of the European Convention on Human Rights (the Convention), with the Committee of Ministers supervising the implementation of judgments in such cases under Article 46 of the Convention. Albeit it is recalled that the interstate procedure under Article 33 of the Convention is intended to adjudicate upon allegations of human rights violations arising in the context of interstate disputes. It does not address the causes of disputes or conflicts, nor does it seek to resolve them or to address post-conflict situations other than in relation to human rights violations identified in the judgment in an interstate case.
4. The Committee also recalls that the 1957 European Convention for the Peaceful Settlement of Disputes (ETS No. 23) which aims to improve the possibilities for the legal settlement of disputes between member States. This Convention provides for three avenues of peaceful dispute settlement: judicial settlement before the International Court of Justice (Chapter I), conciliation (Chapter II), and arbitration (Chapter III). The Committee invites member States that have not yet done so to become Parties to the 1957 European Convention for the Peaceful Settlement of Disputes.
5. It further recalls the existence of other international treaties which provide for mediation as a form of peaceful dispute settlement, including the Charter of the United Nations, and in particular Article 33 paragraph 1, and the Conventions for the Pacific Settlement of International Disputes of 29 July 1899 and 18 October 1907.
6. The Committee of Ministers noted that the elements listed in paragraph 5 of [Recommendation 2281 \(2024\)](#) describe the establishment of a mediation procedure which may be initiated without the consent of the parties involved. These elements also refer to “potential repercussions” and “consequences” for non-

1. Adopted at the 1518th meeting of the Ministers’ Deputies (5 February 2025).



compliance with obligations of good faith and co-operation. The Committee recalls that mediation is a consensual process unless mandated by a legally binding instrument. Therefore, the States concerned must give their prior consent to the use of this procedure.

7. The Committee additionally noted paragraph 5.6 of [Recommendation 2281 \(2024\)](#), which indicates that this process “should also be available for identifying 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 broader toolkit for proposing solutions that are better adapted to addressing the complexities of post-conflict situations and the needs of victims.” In the context of interstate proceedings before the Court, the Committee recall that it is for the Court alone to determine the appropriate amount of just satisfaction to award for any violations of the European Convention of Human Rights or the Protocols thereto.

8. The Committee of Ministers also recalled its Declaration on the effective processing and resolution of cases relating to interstate disputes, adopted on 5 April 2023, which affirmed the potential of the friendly settlement procedure under Article 39 of the Convention to resolve interstate cases pending before the Court and invited the States Parties concerned to consider using this framework, under active guidance from the Court. Several aspects of the Court’s friendly settlement procedure offer opportunities for the Parties to an interstate case to discuss and agree on various measures aimed at ensuring remedies for alleged violations of the Convention.