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Draft convention establishing an international claims commission for Ukraine

Report[1]
Committee on Legal Affairs and Human Rights
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1. Reference to committee: Urgent debate, Reference 4905 of 29 September 2025.

A. Draft opinion[2]

1. The Parliamentary Assembly considers that the Russian Federation must bear the legal consequences of all of its internationally wrongful acts committed in and against Ukraine, including its aggression in violation of the Charter of the United Nations, as well as any violations of international humanitarian law and international human rights law. These include violations of the European Convention on Human Rights (ETS No. 5) committed until 16 September 2022. The Russian Federation must make full reparation for all the damage, loss or injury caused by these breaches of international law to the State of Ukraine and all natural and legal persons concerned. This is in accordance with the principles of State responsibility under international law and in line with the United Nations General Assembly Resolution ES-11/5 of 14 November 2022. The Assembly reiterates that many of the internationally wrongful acts committed by the Russian Federation violate *erga omnes* obligations and peremptory norms of general international law, thereby affecting the international community as a whole.

2. The Assembly has previously addressed the requirement for a compensation mechanism for Ukraine in the context of the ongoing war of aggression against this country. In its Resolution 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", the Assembly called on member States to set up an international compensation mechanism for Ukraine, including a register of damage, a claims commission and a compensation fund. It also considered that the Organisation should play a leading role in setting up and managing such a mechanism. Following the establishment of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine ("Register of Damage") as an enlarged partial agreement on 12 May 2023, which became operational in 2024, the Assembly reiterated in numerous resolutions its call for the establishment of an international claims commission and an international compensation fund as the second and third components of the compensation mechanism. In Resolution 2598 (2025) "Russian war of aggression against Ukraine: the need to ensure accountability and avoid impunity", the Assembly considered that the best model for establishing a claims commission would be an open Council of Europe convention, which could ensure the necessary cross-regional support while benefitting from the leadership and expertise of the Organisation. In its related Recommendation 2294 (2025), the Assembly called on the Committee of Ministers to work without delay towards the establishment of a claims commission for Ukraine, notably by setting up an ad hoc committee for the drafting of an open Council of Europe convention.

3. The Assembly warmly welcomes the finalisation of the draft convention establishing an international claims commission for Ukraine ("draft convention") by the Ad hoc Committee on the Establishment of a Claims Commission for Ukraine (CAHEC). This work followed formal negotiations outside the Council of Europe, under the auspices of an Intergovernmental Negotiation Committee, which included over 50 States, the European Union and the Council of Europe. The draft convention marks a further step in the Council of Europe's global response to hold the Russian Federation accountable for its aggression against Ukraine. It creates an additional and innovative legal tool (the International Claims Commission, hereafter "the Commission") to ensure that the Russian Federation bears the legal and economic consequences of all the damage caused. The Commission will complement the work of other international adjudicative bodies, courts or tribunals dealing with the consequences of the aggression, such as the European Court of Human Rights and the future Special Tribunal for the Crime of Aggression against Ukraine. Justice and accountability cannot be complete without reparations for the victims of the aggression, the State of Ukraine and the individual victims concerned. By establishing the Commission, the Council of Europe is supporting Ukraine in its efforts to ensure justice, redress and reconstruction, while also upholding the rule of law and the international legal order that has been blatantly breached by the Russian Federation. The Assembly commends the Council of Europe's ability to innovate and fill gaps in the international legal response to the aggression, and reiterates that any future peace settlement aimed at ending the aggression must include reparations and redress, or at least not interfere with existing mechanisms.

4. The establishment of a claims commission within the Council of Europe's institutional framework is the natural next step following the setting up of the Register of Damage at the Reykjavik Summit in May 2023. The Assembly reiterates its full support for the Register of Damage, which has already received claims from more than 60 000 individuals across 13 categories of claims. The Register's work will be transferred to the Commission under the terms of the draft convention, and claims will continue to be submitted to the Commission. The fact that both the Register of Damage and the Commission will be within the institutional framework of the Council of Europe will facilitate an efficient transition without any interruption of work.

2. Draft opinion adopted unanimously by the committee on 30 September 2025.

5. The Assembly is satisfied that the draft convention is based on a victim-centred approach, ensuring that individuals and legal persons injured by the aggression are eligible to submit claims to the compensation mechanism, in line with the existing rules concerning the Register of Damage. Regarding the organisational structure of the Commission, the Assembly notes that it follows well-known precedents in international law. The Assembly considers that, overall, it ensures the necessary independence and impartiality of the decision-making bodies, while allowing, with certain safeguards, for the participation of Ukraine and the Russian Federation should they become members. The Assembly further welcomes the fact that the draft convention contains specific provisions on the independence of the Commissioners, the Executive Director and the Secretariat, as well as on procedural standards such as fairness, objectivity and transparency.

6. However, the Assembly regrets that the draft convention does not provide clearer regulation of the funding of the compensation awards and their enforcement and payment. The future existence of a compensation fund is merely mentioned as a possibility in the preamble and Article 22. Without the Russian Federation participating in the Commission – a scenario which seems rather unrealistic in the current context and in light of the conditions set out in Article 28 – the effectiveness of the compensation mechanism can be called into question. Although compensation awards are a necessary step towards justice and reparations, they must be enforced and paid to individual claimants. While noting the incremental approach followed by the States involved in the negotiations on the draft convention, the Assembly urges them to work without delay towards the establishment of an international compensation fund mandated to pay compensation to successful claimants. In line with previous Assembly resolutions (Resolution 2539 (2024) "Support for the reconstruction of Ukraine" and Resolution 2556 (2024) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine") and in accordance with international law, member States and other States holding frozen Russian State assets should consider the repurposing of such assets for transfer to the future compensation fund.

7. The Assembly further regrets that the temporal scope of the Commission is currently limited to the damage caused by violations of international law committed on or after 24 February 2022. The Assembly has consistently recognised that the Russian Federation's war of aggression started on 20 February 2014 and that it escalated into a large-scale invasion on 24 February 2022. It therefore considers that all victims of the Russian Federation's aggression since 2014 should be entitled to compensation. The Assembly calls on the future Parties to the convention to re-examine this issue and consider an amendment in this regard, as foreseen in the preamble and Article 33.2 of the draft convention.

8. The Assembly notes that Article 19 of the draft convention addresses in very general terms the relationship with judgments or awards by courts or tribunals and other international adjudicative bodies. Given the overlap in the jurisdiction of both the future Commission and the European Court of Human Rights for the period between 24 February 2022 and 16 September 2022, the Assembly invites the future Commission bodies to clarify this issue in their rules, in consultation with the Court.

9. The Assembly recognises that the convention should aim to attract as many non-European States as possible, in order to strengthen the Commission's international legitimacy and representativeness. However, as it is a Council of Europe convention, the Assembly believes that the Statute of the Council of Europe (ETS No. 1) and relevant Assembly resolutions should be referenced in the preamble to strengthen its legal basis and acknowledge the Organisation's leading role. The Assembly therefore recommends that the Committee of Ministers make the following amendments to the draft convention:

9.1. in the preamble, add a new fourth paragraph that would read: "Having regard to the Statute of the Council of Europe (ETS No. 1), which in its preamble underlines the pursuit of peace based upon justice and international co-operation;";

9.2. in the preamble, add a new paragraph before the current eleventh paragraph that would read: "Noting that the Parliamentary Assembly of the Council of Europe, in its Resolution 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", called on the Council of Europe member States to set up an international compensation mechanism, including a register of damage, a claims commission and a compensation fund, and that it reiterated its call to establish an international claims commission and an international compensation fund in Resolution 2539 (2024) "Support for the reconstruction of Ukraine", Resolution 2556 (2024) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", and Resolution 2605 (2025) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine;"".

10. The Assembly is of the view that the draft convention establishing an international claims commission for Ukraine can be adopted and opened for signature as soon as possible.

B. Explanatory memorandum by Lord Richard Keen, rapporteur[3]

1. Introduction

1. On 17 September 2025, the Committee of Ministers transmitted the draft convention establishing an international claims commission for Ukraine ("the draft convention") to the Parliamentary Assembly for opinion as soon as possible. The text of the draft convention was provisionally approved by the Ad hoc Committee on the Establishment of a Claims Commission for Ukraine (CAHEC) at its first meeting, held between 9 and 12 September 2025 in The Hague. Before the establishment of CAHEC by the Committee of Ministers on 3 September 2025, the text of the draft convention was formally negotiated outside the Council of Europe, under the auspices of an Intergovernmental Negotiation Committee (INC), which included over 50 States, the European Union, and the Council of Europe.[4] At its meeting in July 2025, the INC agreed that the future claims commission should be established under the auspices of the Council of Europe and that the convention should take the form of an open Council of Europe convention.[5] Both the INC and CAHEC were chaired by Mr René Lefeber, Legal Adviser and Head of the International Law Division at the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

2. The Committee on Legal Affairs and Human Rights appointed me rapporteur at its meeting on 8 September 2025 in Paris, subject to the transmission of the request for opinion by the Committee of Ministers and the referral to the Committee on Legal Affairs and Human Rights. In order to allow for the adoption and opening for signature of the convention by a Diplomatic Conference on 16 December 2025 in The Hague, the statutory opinion by the Parliamentary Assembly needs to be adopted under the urgent procedure during the 2025 fourth part-session. According to Rule 51.1 of the Assembly's Rules of Procedure, the urgent procedure should not be used for a statutory opinion "unless there are exceptional circumstances justifying its use". In light of previous Assembly resolutions and recommendations relating to accountability for Russia's aggression against Ukraine, which emphasise the importance and urgency of establishing a claims commission for Ukraine, I believe that the present request for an opinion falls under the "exceptional circumstances" foreseen in the rules.

3. On 29 September 2025, the Committee on Legal Affairs and Human Rights held a hearing with Mr René Lefeber, Chair of CAHEC, and Mr Markiyan Kliuchkovskyi, Executive Director of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine ("Register of Damage") for Ukraine. The Register of Damage facilitates and participates in the work to establish the claims commission, in accordance with its own statute.

4. In my explanatory memorandum, I will start by outlining the previous work of the Assembly on a compensation mechanism for Ukraine (Chapter 2). I will then set out briefly the main features of the draft convention (Chapter 3). Finally, I will give my own assessment of the draft convention and suggest some amendments that could be proposed in the Assembly's opinion, in order to improve the final text of the draft convention (Chapter 4). If not taken into account at this stage, these proposals could also be considered in the context of possible future amendments to the convention, the possibility of which is explicitly mentioned in its text.

2. Previous work of the Assembly on a compensation mechanism for Ukraine

5. Since the beginning of the full-scale aggression by the Russian Federation against Ukraine in February 2022, the Assembly has adopted numerous resolutions and recommendations regarding the legal and human rights consequences of this aggression, advocating a comprehensive system of accountability for all the violations of international law committed against Ukraine.[6] While the Assembly was the first international institution to call for the establishment of a special tribunal to investigate and prosecute the crime of aggression in April 2022, it also immediately addressed the issue of the damage caused by the aggression.

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3. The explanatory memorandum is drawn up under the responsibility of the rapporteur.
4. Formal Negotiations Begin on Treaty to Establish a Claims Commission for Ukraine – Register of Damage for Ukraine; Second Round of Negotiations Moves Treaty on Claims Commission for Ukraine Forward – Register of Damage for Ukraine. Before these formal negotiations, there were various preparatory meetings in 2024 and 2025 to exchange on a draft originally prepared by the Register of Damage and further revised versions.
5. Progress Continues in Third Round of Negotiations on Claims Commission for Ukraine – Register of Damage for Ukraine. Previously discussed options included a standalone international instrument establishing the claims commission or a standalone international instrument establishing the claims commission which would nonetheless rely on secretarial support from the Council of Europe (the "hybrid model").
6. Russian Federation's war of aggression against Ukraine: special page.

It has emphasised the importance of Russia bearing the legal consequences of all of its internationally wrongful acts and making reparation for the damage caused, in accordance with the principles of State responsibility under international law. Already in its Resolution 2463 (2022) "Further escalation in the Russian Federation's aggression against Ukraine" adopted on 13 October 2022, the Assembly called on member States to set up a comprehensive international compensation mechanism, including an international register of damage. In its Resolution 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", the Assembly welcomed the adoption on 14 November 2022 by the United Nations General Assembly of the resolution entitled "Furtherance of remedy and reparation for aggression against Ukraine" (cited in the preamble to the draft convention), which recognised the need for the establishment of an international mechanism for the reparation of the damage caused and recommended the creation of an international register of damage. In this context, the Assembly considered that the Council of Europe should play a leading role in setting up and managing an international compensation mechanism, which should:

– be established by a multilateral treaty or agreement, open to all like-minded States, with the support of the United Nations, the Council of Europe, the European Union and other international organisations:

– include as a first step a register of damage, which would create a record of evidence and claims for damage, loss or injury caused to all natural and legal persons in Ukraine, as well as the State of Ukraine, as a result of violations of international law arising from the aggression;

– include at a later stage an international compensation commission, mandated to review and adjudicate the claims submitted and documented by the register, as well as a compensation fund, from which compensation awards would be paid to successful claimants. The founding treaty or agreement would regulate matters such as the funding of the compensation fund, the enforcement of compensation awards and how decisions by other international bodies and courts, such as judgments of the European Court of Human Rights, could be enforced through such a mechanism.

6. Resolution 2482 (2023) was the first resolution in which the Assembly explicitly mentioned a compensation commission as part of the international compensation mechanism. Since then and following the creation of the Register of Damage as an enlarged partial agreement by the Committee of Ministers in May 2023, the Assembly has relentlessly advocated the setting up of a claims commission for Ukraine as the second component of the compensation mechanism. It has also consistently supported its establishment under the auspices of the Council of Europe.[7]

7. In its Resolution 2556 (2024) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", the Assembly called for an "independent international claims commission mandated to examine and adjudicate claims, including those registered by the Register". It also stressed that the compensation mechanism should in principle be established under the auspices of the Council of Europe, given that the Register of Damage is a Council of Europe enlarged partial agreement and the leading role played by the Organisation ("while not excluding other options should they ensure more cross-regional support"). Most importantly, such a mechanism should "cover the damage caused by the aggression since February 2014, in particular in relation to breaches of international law confirmed by international courts and adjudicative bodies such as the European Court of Human Rights". It is important to recall that the Assembly has consistently recognised that the Russian Federation's war of aggression against Ukraine started on 20 February 2014 and that it escalated into a large-scale invasion on 24 February 2022.

8. In its Resolution 2598 (2025) "Russian war of aggression against Ukraine: the need to ensure accountability and avoid impunity", the Assembly welcomed the launch of formal negotiations in The Hague (from 24 to 26 March 2025) on an international treaty to establish a claims commission for Ukraine. It reiterated that the best model for establishing such a commission would be "an open Council convention, which could ensure the necessary cross-regional support while benefitting from the leadership and expertise of the Organisation in this area". With regard to the cut-off date for the damage (2022 or 2014), the Assembly called on the members of the Register of Damage to extend the eligibility of claims to include those dating back to 2014, rather than limiting it to claims from 24 February 2022. In its related Recommendation 2294 (2025), the Assembly called on the Committee of Ministers to work without delay towards the establishment of a claims commission for Ukraine, notably by setting up an ad hoc committee for the drafting of an open Council of Europe convention.

7. See also Resolution 2539 (2024) "Support for the reconstruction of Ukraine".

9. Finally, in its latest resolution on accountability for Ukraine, namely Resolution 2605 (2025) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", the Assembly reiterated that the Register of Damage and the compensation mechanism should cover claims relating to the damage post-February 2014. More generally, it underlined that any future peace negotiations must include a comprehensive and just system of reparations for the damage caused. According to the Assembly, States should ensure that "reparations remain a core component of any peace settlement".

10. The third component of the international compensation mechanism, namely a compensation fund mandated to pay compensation for the damage awarded by the Claims Commission, has also been at the core of the Assembly's focus on accountability for the aggression. For example, in its latest resolution, Resolution 2605 (2025), the Assembly noted that discussions on mechanisms for contributing to a future compensation fund should be intensified, taking into account the potential of repurposing frozen Russian assets. The previous Resolutions 2556 (2024) and 2539 (2024) provide the most detail on the compensation fund and the related issue of the use of frozen Russian State assets. The Assembly considered that the repurposing of frozen Russian State assets would constitute lawful countermeasures under international law against the aggression and urged States to adopt such measures at national level, with a view to transferring these assets to a future international compensation fund. All Russian State assets held by Council of Europe member and non-member States should be deposited into that fund, while ensuring transparency, accountability and equity in the disbursement of funds that should be used for compensation and/or reconstruction purposes. Whether the future compensation fund should also be created within the institutional framework of the Council of Europe is still an open question, although some Assembly resolutions suggest this (see paragraph 9 of Resolution 2539 (2024)).

3. Main features of the draft convention

11. The title of the draft convention does not include a reference to the Council of Europe, although its preamble states that this is a "Council of Europe Open Convention" and its Article 2 states that the "International Claims Commission for Ukraine" ("the Commission") is established "as an independent body within the institutional framework of the Council of Europe". CAHEC underlined that in order to give the convention the broadest possible international character it was agreed that such reference would only be made in the preamble, notwithstanding the usual practice of the Council of Europe to include its name in the title of conventions adopted under its auspices.

12. The preamble contains numerous references to United Nations texts, including the UN Charter and UN General Assembly (UNGA) resolutions, notably Resolution ES-11/5 of 14 November 2022, which recognised the need for the establishment of an international mechanism for reparation for damage, loss, or injury, and arising from the internationally wrongful acts of the Russian Federation in or against Ukraine, and recommended the creation of an international register of damage. The preamble further recalls the creation of the Register of Damage through Resolution CM/Res(2023)3 of the Committee of Ministers as a first component of a future international compensation mechanism. It notes that this convention establishes the Commission as the second component of the mechanism "that may also include, as the third component, a future compensation fund mandated to pay compensation". The preamble also includes a paragraph about the temporal scope of the convention: while the Commission will be competent to deal only with damage caused by violations of international law committed by Russia post-24 February 2022 (see also Article 3.1(a)), it is clarified that "this does not absolve the Russian Federation of any responsibility for its internationally wrongful acts committed in or against Ukraine on or after 20 February 2014, nor does it preclude the possibility of a future amendment to this convention to allow its temporal scope to be extended to 20 February 2014" (see also Article 33.2). The temporal scope of the Convention indeed reflects the temporal scope of the Statute of the Register of Damage, which is also limited to post-24 February 2022 damage.

13. After Part I with a provision on the definition of the terms used by the convention (including on claims, the Commission and members), Part II contains general provisions on the establishment, mandate and functions of the Commission. The Commission is defined as "an administrative body that decides Claims for compensation of damage, loss, or injury caused by internationally wrongful acts committed by the Russian Federation in or against Ukraine, including its aggression in violation of the Charter of the United Nations, as well as any violations by the Russian Federation of international humanitarian law and international human rights law" (Article 3.1). The Commission's mandate covers the damage caused "on or after 24 February 2022"; "in the territory of Ukraine within its internationally recognised borders" (plus in its exclusive economic zone and on its continental shelf or to any aircraft or vessel under Ukrainian jurisdiction); and "to all natural and legal persons concerned, as well as the State of Ukraine, including its regional and local authorities and state-owned or controlled entities" (Article 3.1 (a), (b) and (c)). This temporal, geographical and personal scope is similar to that of the Register of Damage. The Commission's function will

be to review, assess, and decide claims and determine any amount of compensation due in each case (Article 3.2). The Commission's decisions shall be final and considered as finally resolving all factual and legal questions with respect to a claim by all members of the Commission (Articles 3.5 and 3.6).

14. Part III deals with the legal status and seat of the Commission. The Commission, unlike other bodies established by Council of Europe treaties, is given international legal personality (Article 4). The seat will be in the territory of one of the Parties to the draft convention (Article 5), although it is already known that the Netherlands, which will hold the Diplomatic Conference to adopt and open the draft convention for signature in December 2025 and is also the seat of the Register of Damage, will most likely be the host State. Article 6 obliges members to apply in their territory the rules set out in the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 2) with respect to the Commission and relevant persons involved.

15. Part IV sets out the organisational structure of the Commission: the Assembly (Article 7), the Financial Committee (Article 8), the Council (Article 10), the Commissioners (Article 11), the Panels (Article 12), the Secretariat (Article 13) and the Executive Director (Article 14). The Assembly shall be composed of all members[8] of the Commission. It shall have overall responsibility for the fulfilment of the mandate of the Commission and oversee the work of the bodies of the Commission. Among other functions, it shall approve rules and regulations governing the work of the Commission (adopted by the Council), elect members of the Council, elect the Executive Director (for appointment by the Secretary General of the Council of Europe), approve the roster of candidates to serve as Commissioners, adopt the annual scale of contributions and the annual budget of the Commission. It has a very important decision-making power which will determine the commencement of the adjudicative work of the Commission: it shall authorise the Executive Director to execute the transfer of the Register of Damage to the Commission, and the Council to establish Panels and appoint the required Commissioners (Article 7.4 (g) and (h)). For these two decisions, the Assembly shall take into consideration the consequences for the annual assessed contributions of Members and the majority required will be a two-thirds majority of the votes cast, including the affirmative votes of all Major Contributors (Article 9.2). The Financial Committee is a subsidiary organ of the Assembly which shall determine the annual contributions of members and perform tasks related to financial matters. The Council shall be composed between 9 and 15 Members, from a list of members that have expressed an interest, in the order in which they became a member. It shall appoint the Commissioners from the roster of candidates approved by the Assembly; establish Panels; adopt the rules and regulations of the Commission (including rules and procedures for the submission, review, assessment, and decision of claims, and for the determination of the amount of compensation; standards for evidence; order of priority; rules for evaluation of damage); and more importantly, have the authority to adopt or remit the recommendations of Panels for decisions with respect to amounts of compensation. It is important to note that for most of these decisions, if and when Ukraine and/or the Russian Federation become members of the Council, they shall abstain from voting (Article 10.1 (d)). Commissioners will be appointed bearing in mind the need for independence, impartiality, integrity, high moral character, experience, professional multidisciplinary expertise, geographical representation, and gender balance. They shall be experts in fields such as international law, dispute resolution, finance, accountancy, insurance, or damage assessment. Their term of engagement, including their remuneration, shall be determined by the Council. Commissioners will sit on Panels and each Panel shall be composed of three Commissioners. They shall be established by the Council to review and assess claims and to determine the amount of compensation. They shall make recommendations for decisions to be adopted by the Council.

16. The Executive Director shall represent the Commission and act on its behalf. He or she shall be responsible for overseeing and administering the work of the Secretariat, and for ensuring substantive, technical, and organisational support for the work of the Commission. He or she shall be elected by the Assembly for an appointment by the Secretary General of the Council of Europe for a renewable term of 4 years. The Secretariat shall possess or procure the necessary expertise for the performance of its functions, including "sufficient expertise in relevant domestic law and proficiency in relevant languages" (Article 13.3). The Council of Europe Staff Regulations and Staff Rules shall apply to the Secretariat.

17. Article 15 lays down certain guarantees for the independence of the Commissioners, the Executive Director and other members of the Secretariat, including through possible rules on conflicts of interest that shall be adopted by the Council.

8. Member shall mean any State or Regional Integration Organisation that has become a Member of the Commission by becoming a Party to the convention.

18. Part V regulates the procedure for the examination of Claims (Articles 16-20). Panels shall examine claims, determine any amount of compensation, and make recommendations for decisions to the Council. These recommendations shall be reasoned. A recommendation shall be deemed approved by the Council unless the Council decides, on grounds stipulated by the Rules, to remit the recommendation to the Panel, which shall make a new recommendation as appropriate. In exceptional situations the Council may refer a recommendation of a Panel to an ad hoc review panel (comprised of three Chairs of Panels) established by the Council for that purpose. If the Council does not agree with the new recommendation of the ad hoc review panel, it shall refer the matter to the Assembly, which shall finally decide the matter. Article 19 deals specifically with how the Commission should take into account judgments or awards by courts or tribunals and other adjudicative bodies. There is an obligation to take into account, as appropriate, relevant judgments or awards by courts or tribunals and other adjudicative bodies established under international law. Although not mentioned, these would include the judgments by the European Court of Human Rights (for violations of the European Convention on Human Rights (ETS No. 5) until 16 September 2022 when Russia ceased to be a State Party), the International Court of Justice and other UN or other treaty-based bodies. The Commission may also take into account judgments or awards by national courts and tribunals. It shall take appropriate measures to ensure that no claimant receives double compensation for the same damage, loss, or injury. Article 20 imposes an obligation on the Commission to operate according to appropriate procedural standards, transparency, and the highest standards of independence, impartiality, fairness and objectivity.

19. Articles 21 and 22 (under Part V) focus on the funding and the payment of compensation. Bearing in mind that Russia must bear the legal consequences of all its violations of international law, it is expected that it shall fund the compensation determined and awarded by the Commission. Members shall not be required to fund the compensation awarded. Decisions of the Commission can be enforced through courts or other judicial or quasi-judicial bodies of the members only if this is expressly permitted under the national law of that member. Although the draft convention does not regulate the compensation fund as part of the compensation mechanism, it does not rule out the possibility of creating a compensation fund in the future. Article 22 provides that the Assembly “may consider the mechanics for the payment of compensation awarded after funding has become available, including payment from any compensation fund that may be established or designated for this purpose”.

20. Part VI regulates the financing of the Commission. Until the Russian Federation bears the costs of the Commission (if it becomes a member), the Commission shall be financed through the annual assessed contributions of members and voluntary contributions. Part VII contains two provisions on the Register of Damage: Article 24 deals with the transfer of the work of the Register to the Commission, which shall become the legal successor of the Register; and Article 25 stipulates that the work of the Register shall continue within the framework of the Commission.

21. Part VIII of the draft convention contains final clauses which are similar to those contained in other open conventions, with the exception of certain specific clauses adapted to the specificities of this convention. For example, Article 28 stipulates the conditions that must be fulfilled for the Russian Federation to become a member. Russia should attach to its instrument of accession a declaration in which it accepts all its responsibility under international law for damage, loss, and injury caused by the aggression and its derived internationally wrongfully acts in or against Ukraine, including its violations of international humanitarian law and international human rights law. In this declaration Russia should also agree to honour the decisions of the Commission on compensation, “to provide the necessary means for the payment of compensation awarded or some other amount agreed to by Ukraine”, and to reimburse the costs of the Commission to members. Article 30.3 establishes a high threshold of membership which needs to be fulfilled before the convention enters into force: 25 ratifications (or acceptance or approval) on the condition that the aggregate individual contributions of these Parties to the budget of the Register for 2025 constitute at least 50% of the total budget of the Register for 2025. During the negotiations, other thresholds were discussed (up to 35 signatories) before a compromise was reached on 25. The threshold of minimum financial contributions to the budget of the Register aims to guarantee the financial sustainability of the new institution, as well as to ensure the participation of Major Contributors. Article 33.2 specifically mentions the possibility of proposing an amendment to the convention that would expand its temporal scope to cover the period after 20 February 2014, in line with the preamble (see above). Finally, Article 36 regulates the duration and termination of the convention, by establishing a minimum duration of ten years from its entry into force, as well as the conditions for its termination (for example denunciations bringing the number of Parties below the above-mentioned threshold of membership) and possible extensions.

4. Assessment of the draft convention

4.1. An international claims commission for Ukraine: a new legal mechanism for accountability and redress

22. First of all, the convention will be the first Council of Europe treaty to establish a mechanism specifically mandated to adjudicate individual compensation claims arising from violations of international law, including international humanitarian law and international human rights law, committed in the context of a specific armed conflict and aggression against one of its member States. The European Court of Human Rights has general jurisdiction over violations of the European Convention on Human Rights ("the Convention") committed in the territory of member States or in areas under their jurisdiction, including in the context of armed conflicts. It is therefore the only international court adjudicating on human rights violations, including claims for just satisfaction under Article 41 of the Convention, stemming from Russia's war of aggression against Ukraine. However, given that the State responsible for these violations ceased to be a Party to the Convention on 16 September 2022 following its expulsion from the Council of Europe, the Court's jurisdiction is limited to alleged violations of the Convention by Russia that occurred before this date, as shown by the recent judgment of 9 July 2025 in the inter-state case *Ukraine and the Netherlands v. Russia.* The "International Claims Commission for Ukraine", whose mandate covers all damage caused on or after 24 February 2022, will therefore fill a gap in the Council of Europe and international law framework and become a key element of the accountability system for Russia's aggression against Ukraine.

23. This is a significant achievement not only for the Council of Europe and its member States that support Ukraine, but also for the rest of like-minded non-European States that have participated in the negotiations of the draft convention and are likely to become members or observers of the Commission. This is also an important step taken by part of the international community to restore the international legal order, which the Russian Federation has been blatantly breaching with its ongoing war of aggression against Ukraine. Since the very start of the full-scale invasion of Ukraine in February 2022, the Council of Europe has been mobilising all instruments available, as well as proposing and creating new legal tools (such as the Special Tribunal for the Crime of Aggression against Ukraine) to ensure Russia's full accountability for its aggression against one of its member States. In so doing, the Council of Europe has demonstrated its added value and its ability to innovate in response to the serious threats to the international legal order posed by the Russian aggression. As the Assembly has already noted, the Council of Europe is not only supporting its member State Ukraine in its efforts to ensure justice, reparations and reconstruction, but aims to uphold the international legal order as a whole, in accordance with the premise that the pursuit of peace must be based on justice and international co-operation (preamble to the Statute of the Council of Europe, ETS No. 1). In the case of the Commission, the Council of Europe aims to enforce the principles of State responsibility under international law, namely that States must bear the legal consequences for all of their internationally wrongful acts, including by making full reparation for the damage caused by such acts. All this is well reflected in the preamble to the draft convention, which sets out very clearly the legal basis upon which the object and purpose of the convention are founded: Article 2 of the UN Charter and its prohibition of the threat or use of force; the various UNGA resolutions condemning the aggression against Ukraine; and the International Law Commission's Articles on the Responsibility of States for Internationally Wrongful Acts, which are widely considered to reflect customary international law. Article 3.4 of the draft convention further states that "the Commission shall work on the basis that the Russian Federation, under international law, is responsible for all damage, loss, or injury caused by its internationally wrongful acts in or against Ukraine".[9]

24. While it is regrettable that the reference to the Council of Europe disappeared from the title of the draft convention, contrary to the usual practice for all recent Council of Europe open conventions, I understand that this was done to secure the broadest possible international and cross-regional support for the convention, as underlined by CAHEC. This may also be the result of the negotiations taking place outside the Council of Europe until a very late stage, when CAHEC was created in September 2025. As with the Special Tribunal for the Crime of Aggression, the Council of Europe must attract as many international partners as possible to join the new legal instruments and bodies, in order to maximise their international legitimacy. At the same time, it is important to ensure that these bodies remain institutionally embedded in the Council of Europe, the Organisation that has taken the lead in responding to the aggression through new accountability mechanisms. In this regard, I am satisfied that the draft convention is presented as a "Council of Europe Open Convention" in its preamble (albeit not in the title), and that the Council of Europe framework and rules are referenced in numerous provisions (Articles 2, 6.2 and 6.3, 13, 14, 23, 29 and 37 for example).

9. See also Article 21: "Members recognise that the Russian Federation must bear the legal consequences of all of its internationally wrongful acts, including making reparation for the injury, including any damage, caused by such acts … ".

25. It is important to note that claimants before the Commission will not only be the State of Ukraine, but also "all natural and legal persons concerned" (Article 3.1 (c)), regardless of nationality. This is in line with the existing Register of Damage, which is open to all natural and legal persons affected by the damage resulting from the aggression post-February 2022. It is also in line with recent international claims commissions that have generally allowed individuals to be eligible to submit their claims vis-à-vis States.[10] This feature must be underlined as it follows the victim-centred approach to accountability and reconstruction that has been advocated by different stakeholders, including by the Assembly and the Council of Europe Commissioner for Human Rights.[11] In an organisation such as the Council of Europe, which is based on the protection of individual human rights, it could not have been otherwise.

26. With regard to the organisational structure of the Commission and the procedure, I note that some aspects are similar to those of the United Nations Compensation Commission.[12] The claims will be examined by Panels, each of which will be composed of three independent Commissioners appointed by the Council (Articles 10.2 (b), 12, 16, 17). The recommendations adopted by the Panels will be submitted for approval to the Council, composed between 9 and 15 representatives of Members or Parties to the convention (Articles 10 and 18). In order to ensure the independence and impartiality of the Council, when Ukraine and/or the Russian Federation are members of the Council, they shall abstain from voting in decisions such as: appointing the Commissioners; adopting rules and procedures for the submission, review, assessment and decision of claims, and for the determination of the amount of compensation; adopting rules for the evaluation of damage; and most importantly, when adopting or remitting the recommendations of Panels with respect to compensation claims (Article 10.1(d)). At the same time, when these two States are not members of the Council, they shall be invited to participate in the meetings of the Council with the right to present their position, but without the right to vote. I believe that this is a good compromise which ensures the possibility for the Ukrainian State to present its position within the Council, generally or with regard to specific claims.

27. While the proceedings for claimants before the Commission cannot be qualified as judicial and the Commission is certainly not a tribunal (not even an arbitral tribunal like the Iran-United States Claims Tribunal),[13] there are two provisions in the draft convention that provide for certain guarantees. Article 20 contains some standards and safeguards for the operation and proceedings of the Commission, such as independence, impartiality, fairness, objectivity, transparency, data protection and confidentiality, and appropriate procedural safeguards. Article 15 aims to guarantee the independence of the Commissioners, as well as the Executive Director and the other members of the Secretariat. Independence and impartiality are also mentioned among the criteria for the appointment of Commissioners (Article 11.1). However, Article 11.4 stipulates that "candidates cannot be disqualified solely on the basis of their nationality", which implies that Ukrainian or Russian nationals could theoretically be appointed. In this regard, I would have preferred a clear exclusion of nationals of the two States concerned. For example, in the Eritrea-Ethiopia Claims Commission, each party could appoint two members, but these could not be nationals or permanent residents of the party making the appointment.[14] As regards the Executive Director, nothing is said about the nationality. Unlike the Executive Director of the Register of Damage, who had to be proposed by the Government of Ukraine, in this case all members are invited to nominate candidates. The presence of Ukrainian nationals within the Secretariat may be necessary, as implied by Article 13.3 when requiring "sufficient expertise in relevant domestic law and proficiency in relevant languages".

28. Regarding the entry into force and phased operation of the Commission, the compromise reached appears reasonable. The double requirement of 25 signatories covering at least 50% of the budget of the Register of Damage for 2025 (Article 30.3) aims to ensure the financial sustainability of the future Commission. The Assembly's competence to authorise the transfer of the Register of Damage and the establishment of Panels/appointment of Commissioners goes in the same direction, since it requires a two-thirds majority of the votes cast, including the affirmative votes of all Major Contributors (Article 9.2).

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10. "International Claims Commissions: Balancing State Responsibility and Individual Rights".
11. "Commissioner O'Flaherty calls for putting human rights at the heart of discussions around peace in Ukraine", Commissioner for Human Rights.
12. Created in 1991 as a subsidiary organ of the UN Security Council with a mandate to process claims and pay compensation for losses and damage suffered as a direct result of Iraq's unlawful invasion and occupation of Kuwait.
13. Article 3.1 of the draft convention defines the Commission as an "administrative body".
14. Agreement between the Government of the Federal Democratic Republic of Ethiopia and the Government of the State of Eritrea, 12 December 2000, Article 5.2. see: "Agreement between the Government of the State of Eritrea and the Government of the Federal Democratic Republic of Ethiopia", Peacemaker.

4.2. Concerns and possible amendments

29. My main concern regarding the draft convention is that there will be an international claims commission created before the cessation of hostilities and without the participation of the State responsible for the damage caused. It will not be established through a bilateral agreement between the two States concerned, like the Eritrea-Ethiopia Claims Commission, nor through a binding resolution of the UN Security Council acting under Chapter VII of the UN Charter, like the United Nations Compensation Commission. Most, if not all, previous international claims commissions were set up after the relevant armed conflict, to determine post-conflict compensation. This unique circumstance may indeed limit the Commission's effectiveness, at least until the situation evolves significantly. While Article 28 of the draft convention leaves open the possibility of future participation by the Russian Federation, it seems rather unrealistic in the present context to expect Russia to meet the conditions set out in this provision. These conditions are that Russia must accept, through a declaration, its responsibility under international law for damage, loss, and injury caused by its internationally wrongful acts in or against Ukraine, including its aggression in violation of the UN Charter, and that it agrees to honour the decisions of the Commission on compensation and to provide the necessary means for the payment of compensation awarded ("or some other amount agreed to by Ukraine"). This seems feasible only if Russia were to be defeated in the war and a peace settlement containing reparation clauses were to be concluded.

30. This issue is also necessarily linked to the funding of the compensation awarded. Article 21.1 states that "the Russian Federation shall fund the compensation determined and awarded by the Commission under this Convention". However, this seems complicated without Russia's participation or without a compensation fund established for this purpose. Previous international claims commissions were created at the same time as the compensation fund (United Nations Compensation Commission) or at least when it was clear that there was money available to pay the compensation awards.[15] The draft convention leaves the creation of a compensation fund as a third component of the international compensation mechanism for the future. This is mentioned as a possibility in the preamble, when it says that the international compensation mechanism "may also include, as the third component, a future compensation fund mandated to pay compensation for damage". It is also referred to in Article 22 (mechanics for payment of compensation awarded), which refers to "any compensation fund that may be established or designated for this purpose". It would have been preferable that the compensation fund was already regulated in the draft convention, or that at least there was a legal obligation on the Parties to the convention to work without delay towards the creation of a compensation fund, while the Commission was being set up. The Assembly had originally advocated regulating the compensation fund in the founding treaty of the compensation mechanism (see Resolution 2482 (2023)), although in the latest resolutions it has insisted on the establishment of a claims commission as a first priority. While I fully understand the stepwise approach followed by the States participating in the negotiations, the Assembly should now call again on all member States and other participating States to work towards the establishment of a compensation fund to secure the payment of future awards. This could be achieved in part by repurposing the frozen Russian State assets that some of these States hold, as the Assembly has consistently advocated, without excluding other possibilities.[16]

31. Regarding the temporal scope of the Commission, I regret that it is currently limited to the damage caused by the violations of international law committed on or after 24 February 2022. As mentioned above, the Assembly has consistently held that the Russian aggression against Ukraine started in 2014 and called for the temporal scope of the Register of Damage to be extended to cover the damage between February 2014 and February 2022. I understand that this limitation in the draft is the result of a compromise with certain non-member States that recognise an aggression only after February 2022, as reflected in their vote in the UNGA resolution in March 2022. For this reason, and because reopening this issue with all partners might delay the establishment of the Commission, I will not propose an amendment to the draft convention on this matter. However, I welcome the fact that both the preamble and Article 33.2 of the draft convention allow for a possible amendment in this regard at a later date. I therefore propose to include in the Assembly's opinion an invitation to all member States and non-member States that will become Parties to the future conversion to revisit this issue in the near future, once the Commission has become operational.

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15. See however the Eritrea-Ethiopia Claims Commission: it did not have a specific centralised compensation fund to disburse the compensation awards, which were to be implemented by the Parties under the obligations of their bilateral agreement (Algiers Agreement). In practice, it appears that the awards were not paid by either Party.

16. However, according to the latest news, the European Commission is working on a plan to use the Russian frozen assets for a loan to Ukraine for immediate reconstruction and defence needs: "Commission proposes €140B loan to Ukraine using Russian frozen assets", POLITICO; "Belgium 'sceptical but constructive' about new EU plan for frozen Russian assets". According to this plan, Ukraine would only pay back the loan once Russia ends the war and pays postwar reparations.

32. The issue of the relationship between the Commission and judgments or awards by international courts or other international adjudicative bodies is complex. Article 19 of the draft convention imposes an obligation on the Commission to take them into account, as appropriate, as well as an obligation to ensure that no claimant receives double compensation. I think that the issue of how the judgments of the European Court of Human Rights in relation to the war of aggression against Ukraine will be taken into account by the future Commission would have deserved an explicit and clearer regulation. There is an overlap in the jurisdiction of both the Commission and the Court for the period of 24 February 2022 to 16 September 2022. The judgment of the Court of 9 July 2025 in the inter-state case of *Ukraine and the Netherlands v. Russia* raises precisely this matter, in the context of Article 41 of the Convention (just satisfaction claims). The Court, when considering that the compensation stage "is not yet ready for decision", briefly referred to the Register of Damage/future compensation mechanism as follows: "the Court considers that any future award made in respect of the applicant Ukrainian Government in the present case pursuant to Article 41 of the Convention must have due regard to the establishment of the Register of Damage and the ongoing discussions concerning a future compensation mechanism" (paragraph 1650 of the judgment). I hope that the future rules on the assessment and decision of claims adopted by the Commission will clarify the relationship with the Court's judgments and awards, hopefully after consultation with the Court itself.

33. Finally, I regret the complete absence of any mention of the Statute of the Council of Europe or any Assembly resolutions in the preamble. This may be due to the need for maximum global outreach. However, as the convention remains a Council of Europe convention (as mentioned in the preamble), I believe that it is logical and reasonable to include a reference to the Statute and the relevant Assembly resolutions. I therefore propose that the Committee of Ministers make the following amendments to the preamble of the draft convention:

33.1. in the preamble, add a new fourth paragraph that would read: "Having regard to the Statute of the Council of Europe (ETS No. 1), which in its preamble underlines the pursuit of peace based upon justice and international co-operation";

33.2. in the preamble, add a new paragraph before the current eleventh paragraph that would read: "Noting that the Parliamentary Assembly of the Council of Europe, in its Resolution 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", called on its member States to set up an international compensation mechanism, including a register of damage, a claims commission and a compensation fund, and that it reiterated its call to establish an international claims commission and an international compensation fund in Resolution 2539 (2024) "Support for the reconstruction of Ukraine", Resolution 2556 (2024) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", and Resolution 2605 (2025) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine"".

5. Conclusions

34. The draft convention establishing an international claims commission for Ukraine marks a further step in the Council of Europe's global response to hold Russia accountable for its aggression against Ukraine. It is also a logical consequence of the Register of Damage being set up at the Reykjavik Summit in 2023. The Assembly should fully support the draft convention with a view to its swift adoption and opening for signature before the end of 2025. Following the signing of the bilateral agreement between the Council of Europe and Ukraine establishing the Special Tribunal for the Crime of Aggression against Ukraine in June 2025, the Commission will provide an additional legal tool to ensure that Russia is held accountable for the serious violations of international law committed against Ukraine. This will entail bearing the legal and economic consequences of all damage caused by the aggression. At the same time, it will contribute to upholding the international legal order that has been blatantly breached since February 2022.

35. Ideally, the Assembly would have preferred to include the compensation fund and a broader temporal scope (from 2014) in the draft convention. However, to attract international partners beyond Europe and advance towards the creation of the Commission without delay, certain political compromises have been made. It would be extremely difficult to reopen these issues with all non-European partners at this stage. Nevertheless, the Assembly should emphasise in its opinion the importance of revisiting these issues in the near future. While compensation awards are an important step towards reparations and justice, they must be enforced and paid to individual claimants. In line with previous resolutions, the Assembly should continue to put pressure on States to find ways to fund the compensation awards, as long as Russia does not accept its full responsibility and pay.

36. Finally, as the convention will be a Council of Europe convention, the Assembly could propose adding a short reference to the Council of Europe's Statute and relevant Assembly resolutions to the preamble. This would strengthen, rather than undermine, the preamble's strong international and United Nations-based legal basis, while acknowledging the Organisation's leading role in the accountability response to the aggression.