

## 2023 ORDINARY SESSION

Fourth part

9 – 13 October 2023

**TEXTS ADOPTED  
BY THE ASSEMBLY**

**Provisional versions**

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Recommendations  
2258 to 2263





**Recommendation 2258 (2023)<sup>1</sup>**

Provisional version

## Pegasus and similar spyware and secret state surveillance

Parliamentary Assembly

1. The Parliamentary Assembly refers to [Resolution 2513 \(2023\)](#) “Pegasus and similar spyware and secret state surveillance” and recommends that the Committee of Ministers:

1.1. adopt a recommendation to member States of the Council of Europe on secret surveillance and human rights, particularly in the light of the threats posed by new surveillance technologies and spyware, taking due account of the highest international standards, the case law of the European Court of Human Rights and Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 223, “Convention 108+”). The recommendation should focus on:

1.1.1. the conditions for the acquisition of spyware by member States’ government bodies and agencies;

1.1.2. the conditions for the use of spyware technologies for law enforcement and national security purposes;

1.1.3. the conditions for the sale and export of spyware technologies to third countries;

1.1.4. authorisation procedures, judicial supervision and oversight mechanisms, notification mechanisms and remedies applicable to the use of spyware by State authorities;

1.1.5. accountability mechanisms in cases of unlawful use of spyware;

1.1.6. human rights due diligence standards for spyware companies;

1.1.7. the transnational aspect of digital surveillance and the use of spyware;

1.1.8. the role of national parliaments;

1.2. examine the feasibility of a Council of Europe Convention on the acquisition, use, sale and export of spyware;

1.3. co-ordinate its efforts with other international organisations, including the European Union and the United Nations, in the areas of data protection, targeted surveillance and spyware, for the purposes of standard-setting and co-operation.

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1. *Assembly debate* on 11 October 2023 (22nd sitting) (see [Doc. 15825](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pieter Omtzigt). *Text adopted by the Assembly* on 11 October 2023 (22nd sitting).







**Recommendation 2259 (2023)<sup>1</sup>**

Provisional version

## **The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions and promoting global peace**

Parliamentary Assembly

1. Recalling its [Resolution 2515 \(2023\)](#) “The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions and promoting global peace”, the Parliamentary Assembly believes that the Council of Europe should develop additional tools to promote democratic security. While national defence is explicitly excluded from the scope of responsibility of the Council of Europe, the Organisation plays a crucial role in strengthening democratic security.
2. The Russian Federation's aggression against Ukraine, however, is the most recent and one of the most extreme examples of the limited effectiveness of the current Council of Europe's mechanisms when it comes to guaranteeing security as a basic precondition for the protection of democracy, human rights and the rule of law.
3. To remedy this weakness, the Assembly proposes the creation of a Council of Europe common democratic security policy, which would catalyse efforts of the Council of Europe in protecting and strengthening international security and enhance its impact in this area. The policy should ensure a comprehensive use of early warning and confidence-building measures, improve policy making, strengthen accountability and prevent future conflicts.
4. In the light of the above, the Assembly invites the Committee of Ministers to consider developing a common democratic security policy aimed at enhancing the role and impact of the Council of Europe in democratic security and conflict prevention, and at creating the preconditions for long-lasting peace. This policy should be elaborated and implemented within the legal and political mandate of the Council of Europe, in complementarity with the activities of the other international organisations competent in this field, and in particular should address the issues of improving the United Nations governing bodies' decision-making process, enhancing accountability for crimes in accordance with international law and enforcing the duty to make reparations for internationally wrongful acts.

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc. 15821](#), report of the Committee on Political Affairs and Democracy, rapporteur: Ms Lesia Vasylenko; and [Doc. 15824](#), opinion of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Claude Kern). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting).









**Recommendation 2260 (2023)<sup>1</sup>**

Provisional version

## Humanitarian situation in Nagorno-Karabakh

Parliamentary Assembly

1. Referring to [Resolution 2517 \(2023\)](#) “Humanitarian situation in Nagorno-Karabakh”, the Parliamentary Assembly invites the Committee of Ministers to take urgent measures to address and redress the exodus of the almost entire Armenian population of Nagorno-Karabakh and the critical humanitarian and human rights crisis affecting them in the months before and immediately after the military operation launched by Azerbaijan on 19 September 2023. It is deeply concerned by a situation which seems, at the very least, to invite suspicions of many aspects of ethnic cleansing.
2. Regretting that Azerbaijan has not respected the commitment it undertook when it joined the Council of Europe to peacefully settle the conflict in this region, as stated in [Opinion 222 \(2000\)](#), the Assembly believes that it is not too late for Azerbaijan to redress the situation and prove its intention towards the Armenian population of Nagorno-Karabakh.
3. To this end, the Assembly requests that the Secretary General and the Committee of Ministers do everything possible to organise a Council of Europe fact-finding mission to Azerbaijan as swiftly as possible, with the aim of assessing and outlining the measures to be put in place to protect the rights of the Armenians of this region including those who have sought refuge outside the country, and to ensure the safe return of those who so wish. Such on-the-ground fact-finding would help in determining what support the Council of Europe can provide to this process, including expertise on minority issues and confidence building measures. This process should doubtless include immediate measures to register and protect the property and assets of those who are currently seeking refuge outside the country and to facilitate access to relevant international or national procedures, in particular in Azerbaijan.
4. The Assembly also calls on the Committee of Ministers to:
  - 4.1. establish country monitoring for Azerbaijan under its 1994 Declaration on compliance with commitments accepted by member States of the Council of Europe;
  - 4.2. consider initiating the complementary joint procedure in response to a serious violation by Azerbaijan of its Statutory and accession commitments.
5. Acknowledging the huge humanitarian crisis which Armenia is facing with the arrival of more than 100 600 Armenian refugees, the Assembly welcomes the ongoing fact-finding mission to Armenia by the Special Representative of the Secretary General on Migration and Refugees, which aims to determine the support which the Organisation could provide to its member State in assisting these refugees.
6. Recognising the gravity of the situation, the Assembly will remain vigilant as to the next measures taken by the Azerbaijani authorities and to the follow-up given to [Resolution 2517 \(2023\)](#), basing itself in particular on the need to ensure full and unambiguous honouring of the international commitments and obligations entered into by, and incumbent upon Azerbaijan.

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc. 15840](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Domagoj Hajduković). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting).







## Recommendation 2261 (2023)<sup>1</sup>

Provisional version

# Call for the immediate release of Osman Kavala

Parliamentary Assembly

1. The Parliamentary Assembly reiterates that the persistent refusal of a Council of Europe member State to implement a judgment of the European Court of Human Rights (“the Court”) notwithstanding an Article 46(4) judgment of the Court in infringement proceedings is unprecedented. Moreover, the fact that this particular judgment, *Osman Kavala v. Turkey*, found a violation of Article 18 of the European Convention on Human Rights (ETS No. 5, “the Convention”) – namely that the proceedings against him constituted a misuse of the criminal justice system, undertaken for the purpose of reducing Osman Kavala to silence, indicates a serious systemic rule of law issue.
2. The Assembly regrets that the Turkish prosecutorial, judicial and executive authorities have been so far unable or unwilling to effectively comply with the judgments of the Court, the rule of law and human rights. The Council of Europe must support Türkiye in improving its processes for respecting the rule of law and human rights and in particular for implementing the judgments of the Court.
3. The Assembly concludes that country monitoring, focusing on measures to execute judgments of the Court, should urgently be undertaken to establish a meaningful and effective process for improving these systems within Türkiye, with the full and earnest co-operation of the Turkish authorities. This measure is necessary in light of the wider rule of law concerns patently evident in the Kavala case. This mechanism should cover the execution of judgments in general and not only the Kavala judgment. It should look at the means for addressing both the general measures and individual measures necessary to execute Court judgments.
4. The Assembly is deeply concerned that the ramifications of this case go beyond Türkiye. The continued, persistent refusal by the Turkish authorities to implement the Court’s judgments in this uniquely egregious case constitutes a significant risk to the credibility and mission of the Council of Europe as a whole. It is therefore incumbent upon the leaders of the Organisation to intervene to resolve this situation, including by securing the immediate release of the human rights defender, Osman Kavala.
5. Therefore, the Assembly calls on the Secretary General of the Council of Europe to take all the actions within her power to seek to secure the effective implementation of this judgment.
6. It also calls on the Committee of Ministers to:
  - 6.1. establish country monitoring in respect of the execution of judgments of the European Court of Human Rights by Türkiye under the 1994 Declaration process. This monitoring should focus on the execution of both individual measures and general measures and should relate to all judgments against Türkiye pending implementation, with a particular focus on those indicating significant problems with the system of implementing judgments of the Court or concerns for the functioning of the justice system and the rule of law;

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc.15841](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Petra Bayr). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting). See also [Resolution 2518 \(2023\)](#).



6.2. engage in dialogue at the highest levels, including through engagement by groups of Ministers, Ambassadors, or former high-level politicians, to secure the implementation of the Court's judgments in particular through the immediate release of Osman Kavala and to resolve the situation of any other eventual political prisoners in Türkiye.



## Recommendation 2262 (2023)<sup>1</sup>

Provisional version

# Preventing addictive behaviours in children

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2520 \(2023\)](#) “Preventing addictive behaviours in children” and emphasises the responsibility that lies with member States to guarantee the right of children to enjoy the best possible state of health, including by adopting addiction prevention and treatment measures. The persistence or growth of this problem among children have shown the long-term ineffectiveness of the national policies and laws in force.

2. Noting that socio-economic difficulties are a major source of stress for children and hence a cause of drug use and other addictive behaviours, the Assembly recalls its work on poverty, in particular its [Recommendation 2234 \(2002\)](#) “Eradicating extreme child poverty in Europe: an international obligation and a moral duty”. It regrets the inadequacy of the [Committee of Ministers’ reply](#) in this field and urges it to fully implement the recommendation so as to achieve, in Europe, the global goal of eradicating extreme poverty by 2030 (United Nations Sustainable Development Goal 1.1), thereby helping to reduce one of the root causes of addictions in children.

3. It welcomes the initial activities of the Council of Europe International Cooperation Group on Drugs and Addictions (Pompidou Group) focusing on children and families affected by parental drug use, and the Lisbon Declaration of 13 and 14 December 2022, which incorporated protecting the rights of persons belonging to vulnerable groups and reducing the availability of illegal drugs, as well as preventing addiction to the internet and online gambling, into the priority activities of the Pompidou Group for 2023-2025.

4. In this context, the Assembly invites the Committee of Ministers to ask the governing bodies of the Pompidou Group to:

4.1. place emphasis on preventing drug use among children by stepping up their co-operation with other international organisations and civil society, basing their recommendations on validated studies and involving children in their activities. It notes the particular potential benefits of looking into the use of cannabis, which is the drug most used by children. A summary of the consequences of the use of cannabis on the physical and cognitive development of children could serve as a basis for a co-ordinated Europe-wide cannabis prevention policy and an approach taking account of the best interest of the child to the recurring issue of the legalisation or decriminalisation of cannabis possession or use so as to deliver a clear message which will be understood by the entire population and in particular by children;

4.2. focus their work on behavioural addictions facilitated by online technologies and practices, placing emphasis on the study of addictive behaviours in children and related prevention measures, including by proposing indicators making it possible to identify this type of behaviour – indicators which should also be made available in a child-appropriate format, among other things so as to enable children to conduct self-assessments;

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1. *Assembly debate* on 13 October 2023 (24th sitting) (see [Doc. 15830](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Diana Stoica). *Text adopted by the Assembly* on 13 October 2023 (24th sitting).



4.3. conduct studies on the prevalence of the use by children of new psychoactive substances, often synthetic drugs, whether legal or illegal, and to propose appropriate prevention measures, targeting children, parents and health professionals.

5. The Assembly recommends that the Committee of Ministers instruct the Council of Europe intergovernmental sector to devise tools to raise awareness among children of the consequences of excessive or addictive use of digital tools and applications, including online betting and gambling, as part of the implementation of its Strategy for the Rights of the Child 2022-2027.

6. The Assembly considers it worth developing regional networks in Europe and beyond and extending the work carried out in the context of the Mediterranean School Survey Project on Alcohol and Other Drugs (MedSPAD) to all the member States of the Pompidou Group, making it thereby possible to survey the specific national characteristics of adolescent substance use and risk behaviours more broadly. Accordingly, it recommends that the Committee of Ministers instruct the governing bodies of the Pompidou Group to set up a broader surveying process, covering all addictive behaviours, possibly by region, so as to enable States to exchange good practices based on common indicators concerning adolescents. This survey should include populations of younger children.



**Recommendation 2263 (2023)<sup>1</sup>**

Provisional version

## Mental health and well-being of children and young adults

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 2521 \(2023\)](#) “Mental health and well-being of children and young adults”. It is convinced that this topic should be given higher priority in the Council of Europe member States and underlines the importance of empowering children and young adults in decision-making processes that relate to them, and in particular about their health and well-being.
2. The Assembly commends the work of the drafting group on developing a guide to child participation in decisions regarding their health (BIO/ENF-CP). In this regard, the Assembly recommends that the Committee of Ministers instruct the drafting group to co-ordinate closely with the World Health Organization (WHO) and other United Nations agencies working on this issue to ensure a harmonised and rights-based approach to mental health, especially for children and young adults.
3. The Assembly moreover recommends that the Committee of Ministers remind the Steering Committee for Human Rights in the field of Biomedicine and Health (CDBIO) of the firm position of the Assembly, the Commissioner for Human Rights of the Council of Europe, relevant United Nations agencies and mechanisms (including the Committee on the Rights of Persons with Disabilities (CRPD Committee) and WHO), and of independent experts and persons with lived experience against the use of coercion in mental health. Mental healthcare must be provided on a voluntary basis and must always respect the autonomy of the person receiving care. Any decisions of the Committee of Ministers should reflect this human rights imperative, and be taken in line with the United Nations Convention on the Rights of Persons with Disabilities, as interpreted by the CRPD Committee.

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1. *Assembly debate* on 13 October 2023 (24th sitting) (see [Doc. 15829](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Simon Moutquin). *Text adopted by the Assembly* on 13 October 2023 (24th sitting).







Resolutions  
2511 to 2522





**Resolution 2511 (2023)<sup>1</sup>**

Provisional version

## The challenge of far-right ideology to democracy and human rights in Europe

Parliamentary Assembly

1. Ideologies that seek to repudiate democracy, undermine human rights and ignore the rule of law are in direct opposition to the core values of the Council of Europe. The attacks of recent years by far-right extremists, both in Europe and globally, must serve as a signal of the danger posed by this ideology to human rights, the functioning of democratic institutions, and to diverse and inclusive societies.
2. The Parliamentary Assembly recalls the commitments taken by Council of Europe member States to abide by the principles of democracy, human rights and the rule of law, and to uphold pluralism, tolerance and respect for diversity as fundamental values that underpin European societies. Extremist ideologies that threaten these principles and commitments warrant a coherent and responsible approach in order to preserve a free, secure, and democratic Europe.
3. Far-right violence, driven by xenophobia, racism and other forms of intolerance, has increased sharply in recent years. Failed coup attempts from Germany to Brazil and attacks on elected representatives have further demonstrated the growing danger of far-right extremism, while a number of member States consider forms of far-right terrorism the fastest growing or most prominent domestic security threat they face.
4. The Assembly has repeatedly made clear its unequivocal condemnation of manifestations of far-right extremism. It has adopted a number of resolutions to tackle the challenge of extreme right-wing ideology, hate speech and intolerance. The evolving dynamics of modern far-right movements, the more sophisticated means of communication, the proliferation of online extremist material, the mainstreaming of the far-right ideology into the public domain, and the raised threat levels across a number of member States mean that it is necessary to continue to refine and adapt actions to protect against ideologies that are incompatible with human rights, democracy and the rule of law.
5. A continuing pattern of democratic backsliding in Europe provides a backdrop for the rise in actions that are against our core values and standards. The Assembly considers that the most effective way of preventing far-right extremism is to strengthen adherence to these core values.
6. The Fourth Summit of the Heads of State and Government of the Council of Europe has given renewed impetus to the Organisation as the cornerstone of European democratic security, to the protection of our democratic foundations, and to countering challenges to human rights. The Assembly welcomes the resolve of member States to stand firm against authoritarian tendencies by enhancing shared commitments.
7. Politicians and political parties should be at the forefront of responses to the phenomenon, both in the public defence of human rights and democratic principles and in the unequivocal rejection of all forms of racism and intolerance, hate speech, incitement to racial hatred and harassment.
8. Governments must ensure that there are counterweights to extremist discourse by publicly challenging the narratives of far-right extremism, and ensuring that measures are in place that strengthen the respect of human rights and promote a model of society that embraces diversity and respects human dignity.

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1. *Assembly debate* on 10 October 2023 (21st sitting) (see [Doc. 15826](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Samad Seyidov). *Text adopted by the Assembly* on 10 October 2023 (21st sitting).



9. Comprehensive approaches to tackle far-right extremist ideologies are needed that seek to engage all levels of society in preventing and countering violent extremism. The Assembly emphasises the need for national action plans against extremist ideologies that include whole-of-society approaches, involving civil society, the media, educational institutions, and political parties.
10. In light of reports of the elevated risk of youth radicalisation in recent years, the Assembly recalls the importance of education as a bulwark against the spread of far-right extremist ideologies, and the continued need to enhance societal resilience against extremist materials and recruitment in response to the extensive use of online platforms to promote extremist ideologies.
11. The Assembly recognises the vital role played in democracies by law enforcement personnel. While it is the case that the overwhelming majority of police officers reject extremism in all its forms, the exposure of far-right extremists in police forces in a number of member States in recent years is a cause for serious concern. Individuals who reject the democratic foundations of the State cannot serve it, and the Assembly emphasises the need to ensure effective mechanisms are implemented against extremists in the police.
12. The Assembly considers that, in light of the transnational nature of the phenomenon, enhanced co-operation between member States is necessary to tackle the pan-European dimension of the threat, and urges member States to engage in international co-operation and information sharing to effectively counter cross-border activities of far-right extremist groups.
13. The Assembly attaches great importance to the work of the bodies of the Council of Europe, notably through the European Commission against Racism and Intolerance, in the monitoring, standard setting, and co-operation activities for combating discrimination, racism and intolerance in our societies.
14. In the light of these considerations, the Assembly calls on Council of Europe member States to:
  - 14.1. review and, if necessary, enhance existing legislation to effectively counter far-right extremism as well as hate speech, incitement to violence, and discrimination propagated by far-right individuals and groups;
  - 14.2. strengthen existing measures to protect groups in vulnerable and marginalised situations from discrimination, harassment, and violence stemming from far-right ideologies;
  - 14.3. promote education and media literacy by integrating comprehensive education about human rights, diversity, and democracy into school curricula, and enhance media literacy programmes to empower citizens to critically analyse and resist extremist propaganda;
  - 14.4. combat online radicalisation through collaboration with social media platforms and tech companies to identify and remove online content that promotes far-right ideologies, while safeguarding freedom of expression and avoiding undue censorship;
  - 14.5. develop strategies to counter disinformation and propaganda propagated by far-right groups, ensuring that accurate and evidence-based information prevails;
  - 14.6. continue to support civil society by providing adequate financial and moral support to civil society organisations and grassroots initiatives working to promote tolerance, intercultural understanding, social cohesion, and deradicalisation;
  - 14.7. encourage political leaders to engage in respectful and inclusive public discourse, condemning hate speech and divisive rhetoric, and advocating for policies that uphold democratic values and human rights;
  - 14.8. enhance the protection of elected officials from politically motivated crimes, intimidation and threats;
  - 14.9. invite democratic parties in the member States to assess the possibility of establishing a "cordon sanitaire" against far-right parties whose values are at odds with those promoted by the Council of Europe so as to prevent them occupying a media and political space that helps normalise them and propagate hate speech and discriminatory discourse.

15. To this end, the Assembly calls on member States:
  - 15.1. as regards legislation to counter far-right extremism and to enhance the protection of groups in vulnerable and marginalised situations, to:
    - 15.1.1. ensure legislation that addresses the dissolution of political parties or prohibition of the formation of a political party complies with the jurisprudence of the European Court of Human Rights and the recommendations of the European Commission for Democracy through Law;
    - 15.1.2. elaborate potential strategies to prosecute violent extremism conducive to terrorism;
    - 15.1.3. sign and ratify, if they have not already done so, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 177) and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189);
    - 15.1.4. disseminate and fully implement Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech;
    - 15.1.5. set up anti-hate crime units in police forces and provide continuing training for police forces focused on the issues of cultural diversity, equal rights and the fight against racism and aimed at raising police officers' awareness of manifestations of far-right extremism and hate speech, as well as boosting their skills in terms of identifying, preventing and tackling such crimes;
    - 15.1.6. ensure effective mechanisms for taking action against law enforcement personnel engaged in far-right extremist activities;
  - 15.2. as regards the promotion of education and media literacy, combating online radicalisation and countering disinformation, to:
    - 15.2.1. counteract extremist narratives and various forms of incitement, in line with Assembly [Resolution 2221 \(2018\)](#) "Counter-narratives to terrorism", through school programmes and awareness-raising campaigns, underlining the shared values of human dignity, peace, non-violence, tolerance and human rights, and involve the victims of extremist acts;
    - 15.2.2. develop a co-ordinated national media literacy policy, in line with Assembly [Resolution 2314 \(2019\)](#) "Media education in the new media environment";
    - 15.2.3. support educational projects and teaching methods aimed at tackling anti-democratic ideologies;
    - 15.2.4. supplement public messaging and awareness campaigns by taking active measures to address conspiracy theories and disinformation and enhance fact-checking capabilities as part of a package of measures to enhance societal resilience against far-right propaganda;
    - 15.2.5. ensure that internet intermediaries take effective measures to fulfil their duties and responsibilities not to make accessible or disseminate hate speech that is prohibited under criminal, civil or administrative law;
  - 15.3. as regards supporting civil society, to:
    - 15.3.1. support prevention policies, including through engagement with entities that work directly with the youth, such as social workers and mental health workers;
    - 15.3.2. deepen partnerships with civil society organisations that are engaged with deradicalisation, rehabilitation, and victim support;
  - 15.4. as regards upholding a respectful and inclusive political discourse, to:
    - 15.4.1. implement the European Commission against Racism and Intolerance General Policy Recommendation No. 15 on Combating Hate Speech by adopting relevant administrative, civil and, as a last resort, criminal law provisions;
    - 15.4.2. ensure that no public funding is allocated to parties promoting hate speech and hate crime;
  - 15.5. as regards enhancing the protection of elected officials, to elaborate, in co-ordination with them, specific measures to improve their protection;

15.6. as regards the need to restore and build public trust in political institutions, to:

15.6.1. implement practical measures to strengthen democracy and governance, while ensuring the inclusion of all citizens;

15.6.2. promote participatory and inclusive democracy by fostering citizen participation in decision-making processes and encouraging active involvement by minority groups and marginalised communities, with a view to strengthening the social fabric and promoting mutual understanding, thereby reducing vulnerability to far-right extremism;

15.6.3. reduce socio-economic inequalities and work actively to reduce social and economic disparities in society by adopting inclusive social and economic policies aimed at ensuring fair access to education, employment, healthcare and other essential services;

15.6.4. promote diversity and inclusion in political institutions so as to enable minority groups and marginalised communities to be fully represented in public institutions, with a view to ensuring equal rights and opportunities for all.

16. The Assembly, in calling for a respectful and inclusive political dialogue, encourages its members to speak out against all forms of intolerance, and political parties to sign the Charter of European political parties for a non-racist and inclusive society as endorsed in its [Resolution 2443 \(2022\)](#) “The role of political parties in fostering diversity and inclusion: a new charter for a non-racist society”.

17. The Assembly invites international organisations which share the Council of Europe’s values, starting with the European Union and the Organization for Security and Co-operation in Europe, to increase their co-operation with the Council of Europe in order to find common solutions to the shared problem of far-right extremism.



**Resolution 2512 (2023)<sup>1</sup>**

Provisional version

## The honouring of membership obligations to the Council of Europe by France

Parliamentary Assembly

1. As a founding member, the host country and one of the four major contributors to the Council of Europe, of which French is one of the two official languages, France has been very closely involved in the work of the Organisation from the outset and has ratified some 146 conventions.
2. In 2019, France was selected by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) for a periodic review report on its compliance with the obligations imposed on every Council of Europe member State in the areas of democracy, rule of law and human rights. The Monitoring Committee is responsible for periodically preparing monitoring reports on compliance with the obligations of all member States which are not subject to specific monitoring procedures
3. France is a country with a longstanding democratic tradition which is committed to respect for human rights. Political pluralism is guaranteed and freedom of association, which is a constitutional principle, enables civil society organisations to play a very active role. Various independent administrative bodies play a key part in checks and balances. Human rights institutions do excellent work and are covered by a legislative framework that protects them and respects their independence.
4. The constitution of the Fifth Republic established a semi-presidential system, which is unique in Europe. The uniqueness of the French system lies both in the position and role of the President of the Republic, who is directly elected by the people and called on to play a central political role in all issues affecting the political life of the country, and also in the strict rules on the law-making and scrutiny powers of the two houses of parliament.
5. The functioning of democratic institutions has been marked by a succession of large-scale protest movements, sometimes accompanied by demands of an institutional nature. Debate is under way on these issues, focusing in particular on the introduction of direct or participatory democracy procedures such as joint-initiative or popular initiative referendums and citizens' conferences, and the arrangements for the use of the measures that enable the government to restrict the legislative process. Many citizens' conferences have been held by the government on a very wide range of issues, producing proposals that have been debated in parliament. A draft constitutional reform tabled on 29 August 2019 including provisions on citizen participation, was not pursued, mainly because of the health crisis linked to the Covid-19 pandemic and the lack of a political majority in favour of it. The idea of a fresh institutional reform has been put forward by the authorities and is currently the subject of consultation.
6. The Parliamentary Assembly is following with interest the experiments with participatory democracy being conducted in France and their link with the mechanisms of representative democracy. The Assembly refers to the interim opinion issued by the European Commission for Democracy through Law (Venice Commission) on Article 49.3 of the Constitution at the request of the Monitoring Committee, which found that

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1. *Assembly debate* on 10 October 2023 (21st sitting) (see [Doc. 15833](#), report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Ms Yelyzaveta Yasko and Ms Fiona O'Loughlin). *Text adopted by the Assembly* on 10 October 2023 (21st sitting).



the article allowed “significant interference by the executive in the powers and role of the legislature ...”. The Assembly will be interested to see the Venice Commission’s final opinion and invites the government and political forces in France to take these considerations into account in the forthcoming institutional debates.

7. Street demonstrations have sometimes been marred by outbreaks of violence that in some cases reached worrying levels. The law enforcement strategy and the use of potentially dangerous weapons have been called into question, and a new blueprint for law enforcement has been published.

8. In this context, the Assembly refers to the “Memorandum on maintaining public order and freedom of assembly in the context of the “yellow vest” movement in France” published by the Commissioner for Human Rights of the Council of Europe on 26 February 2019, and takes note of the changes made to the law enforcement strategy since 2021. Nevertheless, the Assembly is concerned by the finding made again by the Commissioner for Human Rights in her statement of 24 March 2023 that “in the context of the social movement against the pension reform in France, the freedoms of expression and assembly are being exercised under worrying conditions,” thereby corroborating the concerns voiced by the Defender of Rights, the National Consultative Committee on Human Rights and several civil society organisations.

9. The Assembly is particularly alarmed by the high number of people injured during demonstrations, especially the number of injuries with serious long-term consequences. In this connection, it regrets the fact that the official statistics do not provide a clear picture of the number of people injured or killed by law enforcement officers during demonstrations or the number of such officers sanctioned or having received criminal convictions for unlawful acts of violence committed during the demonstrations. Having such statistics would help dispel the feeling that unlawful violence by law enforcement officers goes unpunished. The Assembly therefore calls on the authorities to grant access to this information.

10. The Assembly believes that further thought should be given to law enforcement techniques in France, in particular by drawing on experience in other European countries in order to refocus law enforcement on the tasks of prevention and of supervising the exercise of the freedom to demonstrate, under an approach aimed at calming tensions and protecting individual freedoms.

11. In the absence of comprehensive statistics, the Assembly notes that in several cases where the use of weapons by law enforcement officers resulted in serious injuries or death, the courts have still not handed down rulings more than four years after the events. In many cases, no further action was taken on complaints lodged against law enforcement officers because it could not be established that the injury was caused by inappropriate use of force, or owing to the difficulty of identifying the officer who had fired the weapon. The Assembly therefore encourages the authorities to improve the criminal law treatment of cases of unlawful violence committed by law enforcement officers and to reform the police and gendarmerie inspectorates so as to improve perceptions of their independence and impartiality, while boosting the resources allocated to them.

12. The Assembly is concerned about the finding made in the report published in 2022 by the European Commission against Racism and Intolerance (ECRI) that little progress has been made to effectively prevent or take action against certain types of misconduct by law enforcement officers that disproportionately affect people perceived as having an immigrant background or belonging to minority groups. A forceful reminder of this problem came with the wave of riots that followed the fatal shooting of a teenager by a policeman during a road traffic check in June 2023. The Assembly therefore calls on the French authorities to open a wide-ranging debate about police practices and to take account of the recommendations by national and international institutions on the subject, in particular ECRI’s recommendation that the authorities introduce without delay an effective system of recording identity checks by law enforcement officials, “as part of a policy aimed at strengthening mutual trust between them and the public and their contribution to preventing and combating all forms of discrimination.”

13. The Assembly is concerned to note that the issue of mutual trust between law enforcement officials and the public is highly polarised, with statements by some political and trade union representatives sometimes veering towards hate speech. In this connection, the Assembly refers to ECRI’s recommendation that “political figures on all sides take a firm and public stance against any racist or LGBTI-phobic hate speech, and respond with strong counter-speech.”

14. The Assembly congratulates France on the inclusive and transparent process followed in discussing and analysing the legal system, which led to an initial series of proposed legislative and institutional reforms being debated in parliament. In particular, the Assembly welcomes the announcement of an unprecedented increase in the financial and human resources allocated to the judicial system. The Assembly encourages the French Government to move ahead with the reform process under way by tabling the constitutional bill necessary for completing the reforms of the judicial system recommended by the Venice Commission and the



Council of Europe's Directorate General of Human Rights and Rule of Law in the joint opinion on the Superior Council of Magistracy and the status of the judiciary published on 13 June 2023 and invites the political forces represented in parliament to find ways of reaching a compromise for its adoption.

15. With regard to the Superior Council of Magistracy, the Assembly notes that the joint opinion recommends that France:

15.1. amend the first paragraph of Article 64 of the Constitution in order to clarify the primary role of the Superior Council of Magistracy as guarantor of the independence of the judiciary;

15.2. bring the Constitution into line with the consistent practice of the authorities and the case law of the European Court of Human Rights and do away with the possibility for the Minister of Justice to sit on the Superior Council of Magistracy;

15.3. modify the composition of the section of the Superior Council of Magistracy with jurisdiction over judges by increasing the number of judicial members.

16. With regard to the status of members of the judiciary, the Assembly points out that the joint opinion recommends:

16.1. assigning the Superior Council of Magistracy the power to modify appointment proposals made by the Minister of Justice;

16.2. proceeding with the legislative and constitutional reforms needed to align the appointments procedure for prosecutors and the disciplinary procedure for members of the prosecution service with the current procedure for judges;

16.3. shifting from the Minister of Justice to the Superior Council of Magistracy the power to initiate disciplinary proceedings *ex officio* and to request the Inspectorate General of the Justice System to carry out an investigation.

17. The Assembly is closely following the execution of the judgments of the European Court of Human Rights concerning France, in particular the series of judgments ordering it to put an end to a situation of systemic prison overcrowding that causes detention conditions in breach of Article 3 of the European Convention on Human Rights (ETS No. 5) which prohibits inhuman or degrading treatment or punishment.

18. The Assembly welcomes the many measures decided by the authorities to reduce prison overcrowding, in particular the announcements concerning the building of additional prison capacity, the efforts to improve the distribution of inmates between prisons and the efforts to raise judges' and prosecutors' awareness of possible alternatives to imprisonment. Nevertheless, it notes that the relevant national and international authorities believe that the programme to build new prison places will not provide a lasting solution within a reasonable timeframe, while the prison population statistics show that the situation is steadily worsening. The Assembly therefore refers to the decision adopted on 6 December 2022 by the Committee of Ministers of the Council of Europe, which, in view of the consistent recommendations of several competent national institutions and the urgency of the situation, "invited again the authorities to consider rapidly new legislative measures that would regulate the prison population in a more binding nature".

19. The Assembly notes with interest the conclusions of the recent parliamentary work stating that the judicial measures to limit the use of detention have failed to reduce prison overcrowding and that it is necessary to establish a binding mechanism for regulating the prison population, while proposing a method for implementing this solution gradually and without disrupting the execution of sentences. The Assembly therefore calls on the authorities to try out a binding mechanism for regulating the prison population, at least until such time as the other measures to reduce the prison population have an effect and make such a mechanism unnecessary.

20. Media freedom, freedom of opinion and freedom of expression are guaranteed effectively in France. Restrictions do exist, as strictly defined by law, in order to protect privacy and image rights and to prevent defamation, public insult, the condoning of terrorism, publication of fake news and hate speech. The conditions for working as a journalist are well protected. The Assembly welcomes the planned reform of civil procedure to improve the protection of journalists against vexatious proceedings.

21. The Assembly notes the concerns that exist because of the impact of the trend towards media concentration on pluralism of information. The Assembly is pleased to note the opening of the "États généraux de l'information" national consultation process and will follow its work with great interest. The Assembly

encourages the French authorities to adjust the regulatory environment to the sweeping changes in the media sector so as to improve the transparency of media ownership and guarantee internal and external media pluralism.

22. The Assembly welcomes the advances in the regulation of political financing adopted since 2016, in particular the prohibition of loans from banks headquartered outside the European Union and the limit on the amount which natural persons may donate. In this connection, the Assembly refers to the recommendations by the Group of States against Corruption (GRECO) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) aimed at improving the transparency of political financing.

23. The Assembly congratulates the French authorities on the efforts to combat violence against women, in particular the many measures announced since 2019, and on their unequivocal commitment in this area. The Assembly calls for these announcements to be given full effect by allocating the resources needed for implementing this policy.



**Resolution 2513 (2023)<sup>1</sup>**

Provisional version

## Pegasus and similar spyware and secret state surveillance

Parliamentary Assembly

1. In July 2021, an international coalition of investigative journalists co-ordinated by Forbidden Stories, with the technical support of Amnesty International's Security Lab ("the Pegasus Project"), published information about a leaked list of over 50 000 phone numbers identified as potential targets by clients of NSO Group, an Israeli company that developed and globally markets a spyware called Pegasus. This list included human rights defenders, political opponents, lawyers, diplomats, Heads of State and nearly 200 journalists from 24 countries. 11 countries around the world were identified as potential NSO clients, including two Council of Europe member States, Azerbaijan and Hungary.

2. Subsequent investigative reports, including by CitizenLab of the University of Toronto, have revealed that governments of several Council of Europe member States have acquired and used Pegasus for targeted surveillance of their own citizens. It is known that Pegasus was sold to at least 14 European Union countries, including Belgium, Germany (in a modified version), Hungary, Luxembourg, the Netherlands, Poland and Spain. There is strong evidence that Azerbaijan has also used it, including during the conflict with Armenia. Other member States have acquired or used similar spyware, such as Candiru and Predator. These tools have not only been used within the jurisdiction of member States but they have also been exported to third countries with authoritarian regimes and a high risk of human rights violations, including Libya (under the Gaddafi regime), Egypt, Madagascar and Sudan. These exports have potentially breached EU export rules.

3. The Parliamentary Assembly notes that Pegasus is a highly intrusive surveillance spyware, which grants the user complete and unrestricted access to all sensors and information on the targeted mobile phone. It turns the smartphone into a 24-hour surveillance device, accessing the camera and microphone, geolocation data, e-mails, messages, photos, videos, passwords, and applications. While some spyware require some action on the part of the victim, such as clicking on a link (for instance, Predator) or opening an attachment, Pegasus is installed through a so-called "zero-click attack". Given its unprecedented level of intrusiveness into the private life of the targeted individual and all their contacts, the Council of Europe Commissioner for Human Rights and the European Data Protection Supervisor have expressed serious doubts as to whether its use could ever meet the proportionality requirement and therefore be human-rights compliant.

4. The Assembly shares these concerns and believes that the use of Pegasus-type spyware should be limited to exceptional situations as a measure of last resort, to prevent or investigate a specific act amounting to a genuine and serious threat to national security or a specific and precisely defined serious crime, and only targeting the person suspected of committing or planning to commit those acts, and always under court supervision. In order to limit such a high level of intrusiveness, States should take into account the proportionality of new spyware before acquiring and using them; they should also consider using spyware without some of the most invasive features of Pegasus or a version that is programmed in such a way that it limits access to what is strictly necessary.

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1. *Assembly debate* on 11 October 2023 (22nd sitting) (see [Doc. 15825](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pieter Omtzigt). *Text adopted by the Assembly* on 11 October 2023 (22nd sitting). See also [Recommendation 2258 \(2023\)](#).



5. The Assembly is deeply worried about mounting evidence that Pegasus and similar spyware have been used illegally or for illegitimate purposes by several member States, including against journalists, political opponents, human rights defenders and lawyers. Pegasus and other spyware have also been exported from member States to authoritarian regimes outside Europe, potentially in breach of European Union export rules. The Assembly welcomes the thorough investigation carried out by the European Parliament's Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware (PEGA Committee) leading to the adoption of a recommendation by the European Parliament on 15 June 2023. It notes in this respect that the PEGA Committee and the European Parliament have found that:

5.1. in Poland and Hungary, Pegasus surveillance spyware has been illegally deployed for political purposes to spy on journalists, opposition politicians, lawyers, prosecutors and civil society actors, apparently as part of a system or an integrated strategy;

5.2. in Greece, it has been confirmed that a member of the European Parliament and a journalist have been wiretapped by the intelligence agency and targeted with Predator spyware, and media reports revealed further possible targets of Predator, including other high-profile politicians. Spyware appears to have been used on an *ad hoc* basis for political and financial gains;

5.3. in Spain, the Prime minister and other ministers' phones were infected with Pegasus, allegedly by a third country (Morocco). 65 persons related to the Catalan pro-independence movement were allegedly targeted with Pegasus and/or Candiru, 18 of whom have been confirmed as lawful targets by the Spanish authorities;

5.4. Cyprus and Bulgaria serve as an export hub for spyware;

5.5. spyware companies are or were present in several member States, including Austria, Bulgaria, Cyprus, France, Germany, Greece, Ireland, Italy, Luxembourg, Romania and Switzerland.

6. The Assembly further notes that according to the "Pegasus Project" revelations, Azerbaijan has also used Pegasus, including against journalists, independent media owners and civil society activists. Recent reports have disclosed its use in connection with the Armenia-Azerbaijan conflict, against 12 persons working in Armenia, including an Armenian government official, in what appears to be an example of transnational targeted surveillance.

7. The Assembly unequivocally condemns the use of spyware by State authorities for political purposes. Secretly surveilling political opponents, public officials, journalists, human rights defenders and civil society actors for purposes other than those exhaustively enumerated in Article 8.2 of the European Convention on Human Rights (ETS No. 5, "the Convention") (among which the prevention of disorder or crime and the protection of national security and public safety) amounts to a clear violation of the right to respect for private life (Article 8).

8. If the authorities invoke national security grounds as a justification for using spyware but their real purpose is to target and discredit an opposition politician or to intimidate and silence a human rights defender, the surveillance will give rise to a violation of Article 8 in conjunction with Article 18 of the Convention, which prohibits States from restricting rights for purposes not prescribed by the Convention itself. Such a misuse of power has a chilling effect on the exercise of other human rights and fundamental freedoms, including the freedom of expression (Article 10), the freedom of assembly and association (Article 11) and the right to free elections (Article 3 of Protocol No. 1 to the Convention (ETS No. 9)). It may also undermine the integrity of electoral processes and free public debate, and therefore, the foundations of our democratic societies.

9. The targeting of journalists has an impact on the confidentiality of their sources and in turn on their freedom to impart information. The targeting of lawyer-client communications impairs the exercise of defence rights and the right to a fair trial guaranteed by Article 6 of the Convention, which is a fundamental principle of the rule of law.

10. The Assembly underlines that member States have both negative and positive obligations under the Convention. Positive obligations in this area should include the protection of individuals within their jurisdiction from unlawful targeted surveillance by non-State actors and third States (transnational surveillance). This should trigger at the same time a procedural obligation to effectively investigate all cases of alleged unlawful digital surveillance by third actors targeting persons living in the territory of a member State. The Assembly refers in this context to Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business adopted on 2 March 2016, which recalls that member States have a duty to protect individuals against human rights abuses by third parties, including business enterprises.

11. The Assembly considers that the national investigative authorities and courts of the member States accused of spyware abuses must fully investigate and determine whether the use of Pegasus and similar spyware was lawful under domestic law and compliant with the Convention and other international standards. This implies assessing in each individual case whether the interference pursued a legitimate aim under Article 8.2 of the Convention and whether it was strictly necessary in a democratic society and proportionate to that aim. It also means ensuring that all victims of spyware-related abuses have access to effective remedies and redress. In this context, the Assembly urges:

11.1. Poland, to:

11.1.1. inform the Assembly and the European Commission for Democracy through Law (Venice Commission) about the use of Pegasus and similar spyware, within three months;

11.1.2. conduct effective, independent and prompt investigations on all confirmed and alleged cases of abuse of spyware and provide sufficient redress to targeted victims in cases of unlawful surveillance;

11.1.3. refrain from using blanket secrecy rules to deny oversight mechanisms' and targeted persons' access to information on the use of spyware;

11.1.4. apply adequate sanctions, either criminal or administrative, in cases of abuse;

11.1.5. comply with the opinion of the Venice Commission on the 2016 Police Act;

11.2. Hungary, to:

11.2.1. inform the Assembly and the Venice Commission about the use of Pegasus and similar spyware, within three months;

11.2.2. conduct effective, independent and prompt investigations on all confirmed and alleged cases of abuse of spyware and provide sufficient redress to targeted victims in cases of unlawful surveillance;

11.2.3. refrain from using blanket secrecy rules to deny oversight mechanisms' and targeted persons' access to information on the use of spyware;

11.2.4. apply adequate sanctions, either criminal or administrative, in cases of abuse;

11.2.5. implement without delay the judgments of *Szabó and Vissy* and *Hüttl*, as required by the Committee of Ministers in the exercise of its powers under Article 46.2 of the Convention;

11.3. Greece, to:

11.3.1. inform the Assembly and the Venice Commission about the use of Predator and similar spyware, within three months;

11.3.2. conduct effective, independent and prompt investigations on all confirmed and alleged cases of abuse of spyware and provide sufficient redress to targeted victims in cases of unlawful surveillance;

11.3.3. refrain from using blanket secrecy rules to deny oversight mechanisms' and targeted persons' access to information on the use of spyware;

11.3.4. apply adequate sanctions, either criminal or administrative, in cases of abuse;

11.4. Spain, to:

11.4.1. inform the Assembly and the Venice Commission about the use of Pegasus, Candiru and similar spyware, within three months;

11.4.2. conduct effective, independent and prompt investigations on all confirmed and alleged cases of abuse of spyware and provide sufficient redress to targeted victims in cases of unlawful surveillance;

11.4.3. refrain from using blanket secrecy rules to deny oversight mechanisms' and targeted persons' access to information on the use of spyware;

11.4.4. apply adequate sanctions, either criminal or administrative, in cases of abuse;

11.5. Azerbaijan, to:

11.5.1. inform the Assembly and the Venice Commission about the use of Pegasus and similar spyware, within three months;

11.5.2. conduct effective, independent and prompt investigations on all confirmed and alleged cases of abuse of spyware and provide sufficient redress to targeted victims in cases of unlawful surveillance;

11.5.3. refrain from using blanket secrecy rules to deny access to information on the use of spyware to oversight mechanisms and targeted persons;

11.5.4. apply adequate sanctions, either criminal or administrative, in cases of abuse.

12. The Assembly considers that the Polish parliamentary election of 2019 was not fair as Pegasus was used against political opponents during the electoral campaign.

13. The Assembly calls on member States which seem to have acquired or used Pegasus, including Germany, Belgium, Luxembourg and the Netherlands, to clarify the framework of its use and applicable oversight mechanisms. It invites them to send this information, as well as any statistics on the use of Pegasus, to the Assembly and the Venice Commission within three months.

14. In order to prevent future abuses of spyware and human rights violations in Europe and beyond, the Assembly calls on all member States to:

14.1. ensure that their national laws on secret surveillance are in full conformity with the requirements of the European Court of Human Rights and the Venice Commission, with regard to quality of the law, authorisation procedures, supervision and oversight mechanisms, notification mechanisms and remedies, and review them if necessary;

14.2. ensure that the implementation of their legislative framework is effectively in line with the case-law of the European Court of Human Rights on targeted surveillance, with respect to legality, legitimacy, necessity and proportionality of any surveillance measure;

14.3. pending the assessment of their legislative framework and practice by the Venice Commission, refrain from using tools like Pegasus, Candiru, Predator or similar spyware;

14.4. in the mid-term, regulate specifically the acquisition and use of spyware by law enforcement and intelligence agencies, limiting the use of Pegasus-type spyware to exceptional situations as a measure of last resort, to prevent or investigate a specific act amounting to a genuine and serious threat to national security or a specific and precisely defined serious crime, and only targeting the person suspected of committing or planning to commit those acts. States should also establish oversight mechanisms, including parliamentary oversight, on the acquisition and use of spyware technologies, and incorporate an obligation to take into account proportionality considerations before acquiring and using new spyware;

14.5. criminalise the sale to and use of spyware by non-State actors;

14.6. ratify, if they have not yet done so, the Protocol amending the Convention for the protection of individuals with regard to the automatic processing of personal data (CETS No. 223) known as "Convention 108+", which will apply to the processing of data for national security purposes, and already start implementing its standards in national law;

14.7. ratify, if they have not yet done so, the Convention on Cybercrime (ETS No. 185, "Budapest Convention") and its Additional Protocols;

14.8. refrain from granting export licenses in respect of spyware technologies to countries where there is a substantial risk that those technologies could be used for internal or transnational repression and/or to commit human rights violations and revoke those granted in such cases;

14.9. join the Wassenaar Arrangement if they have not yet done so, and for States already participating in this arrangement, develop a human rights-based framework for the transfer of spyware technologies, according to which export licenses would require a human rights impact assessment of the recipient State and the companies' compliance with the United Nations Guiding Principles on Business and Human Rights;

14.10. require that all spyware companies domiciled or conducting substantial activities within their jurisdiction apply human rights due diligence throughout their operations or in respect of such activities, in line with the CM/Rec(2016)3 of Committee of Ministers, and implement standards restricting public procurement contracts to only those companies which demonstrate that they apply human rights due diligence.

15. The Assembly asks the Venice Commission to assess the legislative framework and practice on targeted surveillance of all member States (in priority Poland, Hungary, Greece, Spain and Azerbaijan; and then Germany, Belgium, Luxembourg, the Netherlands and all the other member States), in order to assess if such framework contains adequate and effective guarantees against any possible abuse of spyware, having regard to the Convention and other Council of Europe standards. Given the level of intrusiveness of Pegasus and similar spyware, clear and precise legislation, robust oversight mechanisms, procedural guarantees and effective remedies must be in place before member States can continue using those tools.

16. The Assembly trusts that the evaluation and review mechanism foreseen in amending Protocol CETS No. 223 will ensure the monitoring of the implementation of the relevant provisions of Convention 108+ in the area of targeted surveillance for national security and law enforcement purposes, including the use of spyware.

17. The Assembly calls on:

17.1. Israel, which enjoys observer status with the Assembly, to:

17.1.1. strengthen its export control mechanisms to ensure that export licenses are denied or revoked with respect to spyware technologies where there is a substantial risk that those technologies could be used for internal or transnational repression and/or to commit human rights violations;

17.1.2. fully co-operate with investigations conducted by Council of Europe member States regarding the use of Pegasus and other spyware exported from Israel or sold by Israeli-based companies;

17.1.3. publish its framework on export control and inform the Assembly about it within six months;

17.2. Morocco, which enjoys partner for democracy status with the Assembly, to:

17.2.1. inform the Assembly within three months on whether it has used Pegasus or similar spyware at home and abroad;

17.2.2. launch within three months a fully independent investigation into the alleged use of Pegasus by State authorities against targets in Morocco and targets within the jurisdiction of Council of Europe member States.

18. The Assembly also calls on spyware and surveillance companies domiciled in Council of Europe member States or conducting substantial activities within their jurisdiction to apply human rights due diligence throughout their operations or in respect of such activities and improve transparency, in line with the CM/Rec(2016)3 of Committee of Ministers and the United Nations Guiding Principles on Business and Human Rights;

19. The Assembly invites the European Union to sign and ratify Convention 108+, make use of the Council of Europe's expertise in this field, and engage with its relevant bodies in areas such as data protection, targeted surveillance and spyware, for the purposes of standard-setting, monitoring and co-operation.







## Resolution 2514 (2023)<sup>1</sup>

Provisional version

# Preventing and combating violence against women with disabilities

Parliamentary Assembly

1. The issue of disability, which encompasses a multitude of realities, is universal in scope. One in five people in the world will experience a disability at some point in their lives. The inclusion of persons with disabilities in society, the main objective of the United Nations Convention on the Rights of Persons with Disabilities, has made significant progress in recent years. However, it has not yet been fully achieved in Council of Europe member States.
2. The Covid-19 pandemic has led to greater isolation and increased dependence among persons with disabilities. Opportunities for all to participate in social, economic and political life remain limited, and there are many obstacles to achieving inclusion. Persons with disabilities, in all their diversity, remain particularly vulnerable to violence and discrimination.
3. Gender-based violence against women and girls originates in deeply entrenched gender inequalities. The invisibilisation of women with disabilities and continued economic and social dependence create a context of heightened vulnerability that compounds these inequalities. In addition, violence against women with disabilities, whether physical, sexual, psychological, structural or economic, remains a taboo subject, despite the general increase in awareness of the urgent need to prevent and combat sexual violence thanks to the #MeToo movement.
4. The Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") states in Article 4.3 that the protection and support provided under the Convention are to be accessible to all women without discrimination, including with respect to age, disability, marital status, association with a national minority, migrant or refugee status, gender identity or sexual orientation. The Parliamentary Assembly reiterates its unwavering support for the Istanbul Convention and its [Resolution 2479 \(2023\)](#) "The Istanbul Convention: progress and challenges". Preventing and combating violence against women with disabilities must become a political priority. The accessibility of prevention campaigns, information for survivors, legal aid and shelters must be guaranteed. The Assembly recognises furthermore that there is an intersectional dimension to violence against women and girls with disabilities. Due account must be taken of the intersection of disability with gender, origin, sexual orientation, gender identity, gender expression, sex characteristics, migration status or religion.
5. Society infantilises women with disabilities by not allowing them to make informed choices about their lives, including their sexual and reproductive health and rights. Forced sterilisations, which are still happening in Europe, are a reflection of society's validation of the "able-bodied" person as the social norm, and of the pre-eminence of the patriarchal system and they increase the risk of sexual violence. They are one of the forms of violence condemned by the Istanbul Convention. The Assembly refers to its [Resolution 1945 \(2013\)](#) "Putting an end to coerced sterilisations and castrations" and reiterates its call for these practices to be banned.

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1. *Assembly debate* on 11 October 2023 (22nd sitting) (see [Doc. 15828](#), report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Béatrice Fresko-Rolfo). *Text adopted by the Assembly* on 11 October 2023 (22nd sitting).



6. A society that isolates persons with disabilities is neither fully democratic nor inclusive. The Assembly regrets the lack of prioritisation of policies to support persons with disabilities towards inclusion. The Assembly refers to its [Resolution 2431 \(2022\)](#) “Deinstitutionalisation of persons with disabilities”, [Resolution 2291 \(2019\)](#) “Ending coercion in mental health: the need for a human rights-based approach”, and [Resolution 2258 \(2019\)](#) “For a disability-inclusive workforce”. It reiterates its call for the deinstitutionalisation of persons with disabilities and stresses that their participation in the social, economic and political life of our countries is beneficial on multiple levels. It calls for systemic change to achieve effective inclusion and prevent violence against persons with disabilities, in all their diversity.

7. In the light of these considerations, the Assembly calls on Council of Europe member States as well as observer States and all States whose parliaments enjoy observer or partner for democracy status, to:

7.1. ratify and implement, if they have not already done so, the Council of Europe Convention on preventing and combating violence against women and domestic violence;

7.2. prohibit, if they have not already done so, forced sterilisations and forced abortions and ensure that those who have suffered violence of this type receive compensation;

7.3. implement Recommendation CM/Rec(2012)6 of the Committee of Ministers to member States on the protection and promotion of the rights of women and girls with disabilities, which calls on them to put in place specific measures to improve access to justice for women with disabilities and to protect them from violence;

7.4. implement the United Nations Convention on the Rights of Persons with Disabilities and continue the process of deinstitutionalisation of persons with disabilities, or initiate it if this has not yet been done;

7.5. carry out disability-sensitive data collection on gender-based violence, and support research into gender-based violence against women with disabilities.

8. With regard to preventing violence against women with disabilities, the Assembly calls on these States to:

8.1. make the inclusion of persons with disabilities a priority, supporting their access to education, employment and culture, investing in accessibility and promoting their participation in economic, cultural, political and public life, and supporting in particular the empowerment of women with disabilities;

8.2. disregard the spouse’s income in determining eligibility for disability allowance, thus reducing the financial dependence of persons with disabilities;

8.3. adopt inclusive national strategies or action plans aimed at preventing and combating gender-based violence, taking into account disability and the intersections between gender, age, origin, sexual orientation, gender identity, gender expression, sex characteristics, migration status and disability, and ensuring the participation of members of organisations representing persons with disabilities in the development of such strategies or plans;

8.4. include a gender dimension in national disability policies;

8.5. run campaigns to prevent gender-based violence that are inclusive and accessible to persons with disabilities, and conduct specific initiatives to prevent violence in institutions for persons with disabilities;

8.6. provide health care professionals and social workers with training on the rights, dignity, autonomy and needs of women with disabilities, in all their diversity;

8.7. step up monitoring of institutions for persons with disabilities by independent bodies, and ensure the protection of staff members in such institutions who report cases of violence;

8.8. raise awareness of the issue of forced marriages among women with disabilities, particularly in times of conflict;

8.9. provide information on sexual and reproductive rights in accessible formats;

8.10. carry out awareness-raising campaigns on the issue of violence within the family in order to prevent incest, in particular against girls with disabilities, and support families and parents financially and emotionally in their work accompanying girls and women with disabilities;

8.11. run campaigns to combat stereotypes of persons with disabilities, taking into account the diversity of disability.

9. With regard to support for survivors of gender-based violence with disabilities, the Assembly calls on these States to:
- 9.1. provide inclusive and accessible information on assistance and support services for survivors of violence;
  - 9.2. provide training on disability mainstreaming and inclusion for staff working in specialist services for survivors of gender-based violence, and ensure that these facilities, as well as helplines, are accessible;
  - 9.3. provide training for the police, prosecutors and judges on the specific features of disability and on international standards on the protection of the rights of persons with disabilities, and ensure that communication tools geared to persons with disabilities are made available;
  - 9.4. take the necessary measures to eliminate the obstacles to access to justice faced by women with disabilities, ensuring the provision of disability-appropriate procedures and accommodation and accessibility of all procedures;
  - 9.5. ensure access to post-trauma care, including long-term psychological support, for all survivors of gender-based violence, taking into account the specific needs of survivors of sexual violence with disabilities in times of conflict;
  - 9.6. offer free legal aid, including primary and secondary specialised legal aid to all women with disabilities who are survivors of violence, so that they can access specialised well-trained attorneys;
  - 9.7. ensure that all the legal remedies are put in place to guarantee access to compensation mechanisms for women with disabilities who have been subjected to violence.
10. The Assembly encourages member States to provide financial support to non-governmental organisations working to promote the inclusion of persons with disabilities, prevent and combat gender-based violence and support survivors.
11. The Assembly calls on national parliaments to ensure that their structures and proceedings are accessible to persons with disabilities, if this is not already the case, and on political parties to encourage the participation of women with disabilities in political life.
12. The Assembly calls on its members to hold debates in their national parliaments on progress and challenges in achieving the inclusion of persons with disabilities, and on preventing and combating violence against women with disabilities.





**Resolution 2515 (2023)<sup>1</sup>**

Provisional version

## **The role of the Council of Europe in preventing conflicts, restoring credibility of international institutions and promoting global peace**

Parliamentary Assembly

1. The price of every war will always be many times higher than that of its prevention. Throughout its 74 years of history, the Council of Europe has played a key role in preventing conflicts on the European continent, employing a panoply of tools, such as early warning and monitoring, confidence-building, and the promotion of common values. Recently, however, peace has been fundamentally challenged.
2. After a gradual decline, the number of armed conflicts in the world began to rise again in 2010. Some 35 are currently ongoing. Contributing factors to this rise include the breakdown in the rule of law, weak State institutions, unsustainable exploitation of natural resources that exacerbates climate change, erosion of social welfare, the weakening of multilateralism and the passivity of the international community towards emerging threats – all of which might contribute to the rise of authoritarian regimes. The international order has been put under an existential threat as a result of the ongoing Russian aggression against Ukraine launched on 20 February 2014 and drastically escalated on 24 February 2022.
3. The Statute of the Council of Europe (ETS No. 1) begins with a preambular paragraph declaring that “the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation”. According to Article 1 of the Statute, “the aim of the Council of Europe 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”. However greater unity can not be achieved without peace.
4. Indeed, the Council of Europe is a peace project, aimed at tackling, in a structural and systematic way, the root causes of tensions and disputes before they erupt into conflicts.
5. The Parliamentary Assembly recalls that security is a wider concept than defence and rests to a great extent on compliance with democratic processes, human rights and the rule of law. While national defence is explicitly excluded from its scope of responsibility, the Council of Europe is a frontrunner in protecting democratic security. This notion, first endorsed by the Heads of State and Government of the Council of Europe at the 1993 Vienna Summit, as well as the concept of “indivisible security”, included in the Charter for European Security of the Organization for Security and Co-operation in Europe (OSCE) (Istanbul, 1999), are today as relevant as ever.
6. In this new security context fraught with risks, Council of Europe member States should renew their commitment to the values of democracy, human rights and the rule of law. They should reiterate their support for the Council of Europe as the cornerstone European organisation to develop a shared space where these values can thrive, in the pursuit of peace based upon justice and international co-operation.

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc. 15821](#), report of the Committee on Political Affairs and Democracy, rapporteur: Ms Lesia Vasylenko; and [Doc. 15824](#), opinion of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), rapporteur: Mr Claude Kern). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting).

See also [Recommendation 2259 \(2023\)](#).



7. The Assembly believes that the Council of Europe should develop additional tools to promote democratic security, namely a common democratic security policy which would aim at intensifying the efforts of the Council of Europe in protecting and strengthening international security. The policy should ensure a comprehensive use of early warning and confidence-building measures, improve policy making, strengthen accountability and prevent future conflicts. This policy should be elaborated and implemented within the legal and political mandate of the Council of Europe, in complementarity with the activities of the other international organisations competent in this field.
8. The Assembly strongly advises member States to refrain from initiating official interactions with the governments of both the Russian Federation and Belarus, particularly in the realm of diplomatic appointments.
9. The Assembly should fully use its high potential to contribute to the reform of the global security architecture, as its good functioning will have a direct impact on the democratic security of Council of Europe member States. In doing so, the Assembly should promote co-ordination and co-operation between the Council of Europe and other international organisations.
10. The Assembly also underscores the importance of the complementary joint procedure, enabling the Council of Europe's statutory organs to take action together in case of a blatant violation by a member State of its obligations under the Statute.
11. In addition, the Assembly underlines the role of national parliaments in fulfilling their key function to uphold representative democracy in Europe, to reflect and advise on the best ways in which modern democracies might advance and democratic security be preserved.
12. In light of these considerations, as regards democratic security and democratic resilience, the Assembly recommends that Council of Europe member States:
  - 12.1. ensure adherence to the rule of law and to fundamental rights and freedoms, so as to build trust in public institutions in every member State;
  - 12.2. engage in a dialogue on the state of democracy in Europe, so as to consolidate the Council of Europe's role as the guardian of democracy throughout greater Europe;
  - 12.3. consider the ways in which public debate can be organised in member States in order to raise awareness about democratic security and to explore ways to strengthen democratic resilience;
  - 12.4. prioritise good neighbourly relations, and commit to resolving disputes and disagreements through dialogue and diplomacy;
  - 12.5. give priority to the use of early warning and confidence-building measures;
  - 12.6. commit to peaceful settlement of disputes by recognising as compulsory the jurisdiction of international tribunals, strengthening their capacities and streamlining their procedures;
  - 12.7. ensure early access of decision makers to international legal expertise to guide national policies;
  - 12.8. intensify co-operation with the European Commission for Democracy through Law (Venice Commission) and support its activities;
  - 12.9. support cross-border co-operation and other efforts to defuse tensions and promote understanding at the local level, including with and among civil society;
  - 12.10. promote multilateral dialogue and contribute to the formation of uniform positions of different international organisations which will pave the way to build a strong and unified response to violations of international law;
  - 12.11. start a dialogue on consolidating member States' positions on reforming crucial security institutions, in particular the United Nations Security Council, and pursue an active and concerted policy to initiate change;
  - 12.12. invest in all aspects of a comprehensive security approach, including deep/soft security, human security, and democratic resilience;
  - 12.13. recognise that the notion of security is closely intertwined with numerous challenges, such as energy dependence and climate change;
  - 12.14. safeguard their societies from attacks on the good functioning of democracy, including disinformation and misinformation, and particularly from internal or external attempts to undermine, or interfere in, electoral processes;

- 12.15. promote the role of civil society, finding ways of involving citizens in decision-making processes and safeguarding freedom of association;
- 12.16. ensure that the ability to access and impart information is protected, including by guaranteeing an independent and pluralistic media environment;
- 12.17. tackle socio-economic inequalities, which threaten the democratic stability of our countries and dent citizens' trust in politics;
- 12.18. consider, for instance in the framework of the World Forum for Democracy to be held in Strasbourg in November 2023, the ways in which democracy can be strengthened by giving it a firmer foothold at all levels of the State and also by reinforcing it at the transnational level.
13. As regards the role of the Council of Europe, the Assembly recommends that its member States:
- 13.1. fully subscribe to rules-based multilateralism while striving to further strengthen it, in particular by ensuring full compliance with international law and the honouring of the obligations stemming from the conventions to which they are parties;
- 13.2. ensure that the European multilateral architecture is more responsive and effective in tackling the present challenges;
- 13.3. give fresh impetus and political support to the central role of the Council of Europe as the guardian of human rights, democracy and the rule of law in Europe and as a platform for political dialogue, diplomacy and multilateralism;
- 13.4. support the further development of Council of Europe work in the area of democratic security and democratic resilience;
- 13.5. promote all efforts aimed at ensuring accountability for violations of international law by recognising the jurisdiction of the International Criminal Court, lifting all jurisdictional limits for the prosecution of the crime of aggression and, when necessary, to ensure full accountability, establishing *ad hoc* tribunals with a narrowly defined jurisdiction, such as a special tribunal for the crime of aggression against Ukraine;
- 13.6. encourage the participation of the Council of Europe, as appropriate, in relevant consultations and negotiations and the provision of concrete expert and technical support for the process of creating the special tribunal for the crime of aggression against Ukraine;
- 13.7. enforce the duty to provide compensation to the victim of aggression, including by lawful confiscation of State-owned and private-owned assets;
- 13.8. support the establishment of a comprehensive compensation mechanism as provided by the Riga Declaration of 11 September 2023, including the development of the already-created Register of Damage Caused by the Aggression of the Russian Federation against Ukraine and an international commission for the examination of claims for the damages;
- 13.9. support the active role of the Council of Europe in promoting reforms of other international organisations to ensure their effective functioning;
- 13.10. allocate the necessary financial resources to ensure the financial sustainability of the Council of Europe;
- 13.11. ensure effective follow up to the Reykjavik Summit of Heads of State and Government of the Council of Europe;
- 13.12. allocate the necessary resources to ensure that the Council of Europe can expand its work on confidence-building measures to help lay the foundations for long-lasting peace.
14. As regards its own activities, the Assembly should:
- 14.1. increase its focus on parliamentary diplomacy as a tool to defuse tensions, promote dialogue, reinforce mutual understanding and enhance confidence building and conflict prevention;
- 14.2. contribute to the Council of Europe's efforts on early warning in order to address situations which risk posing a threat to the rule of law, democratic security and good neighbourly relations;

14.3. strengthen the capacity of both the Committee on Political Affairs and Democracy and the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), in particular in terms of early warning, in line with the conclusions of the 2023 Council of Europe Summit, and give consideration to mechanisms to ensure that due account is taken of such early warnings;

14.4. strengthen elements relating to conflict prevention, conflict resolution and democratic security in the terms of reference of its committees and sub-committees;

14.5. place greater emphasis on new security challenges and how they relate to democracy, human rights and the rule of law and mobilise political will to address structural factors that erode democratic institutions;

14.6. enhance co-operation on confidence building and conflict prevention with other international parliamentary assemblies, including the European Parliament, the OSCE Parliamentary Assembly and the Parliamentary Assembly of the North Atlantic Treaty Organization (NATO);

14.7. strengthen co-operation and carry out joint activities with national parliaments on confidence building and conflict prevention.





**Resolution 2516 (2023)<sup>1</sup>**

Provisional version

## Ensuring a just peace in Ukraine and lasting security in Europe

Parliamentary Assembly

1. The Parliamentary Assembly reiterates its firmest condemnation of the Russian Federation's ongoing brutal war of aggression against Ukraine – which is a crime in itself – and of the serious, persistent and widespread atrocities and other violations of international law, international humanitarian law and human rights of which the Russian Federation is responsible, through its political and military leadership, military forces and proxies.
2. Reaffirming its solidarity with the Ukrainian people and echoing the Reykjavík Declaration which was adopted by the Heads of State and Government at the 4th Council of Europe Summit (16-17 May 2023), the Assembly states, once again, its unwavering commitment to stand with Ukraine for as long as it takes for its victory, and its support for the independence, sovereignty, and territorial integrity of Ukraine within its internationally recognised borders, including its territorial waters.
3. The Assembly reiterates its non-recognition of the attempted illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol, as well as parts of the Donetsk, Kherson, Luhansk and Zaporizhzhia regions of Ukraine, which violates international law, and poses a direct threat to international security with serious consequences for the international community. It reaffirms its readiness to continue exerting restrictive pressure on the Russian Federation to counter its illegal actions through undertaking further measures against the Russian Federation.
4. The Council of Europe was established in the aftermath of the Second World War as a peace project, in the conviction that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation. Since its foundation, the Council of Europe has contributed to strengthening human rights, democracy and the rule of law in its membership, which was substantially expanded following the end of the Cold War so as to embrace nearly all European countries.
5. Thirty years since the 1<sup>st</sup> Council of Europe Summit of Heads of State and Government in Vienna, which gave a signal of hope to all European States who shared the political aspiration to establish a common legal space, a common area of peace and a community of values, a full-scale war of aggression has taken centre stage in the heart of the continent, against the backdrop of a deteriorated security situation characterised by open and frozen conflicts, escalating tensions and hybrid threats. This state of affairs confirms the need for firmness in demanding that Council of Europe States fully uphold their commitments and obligations as members of the Organisation, as their adherence to Council of Europe standards is also a guarantee of security for each other, as inherent in the principle of democratic security.
6. As the Russian Federation's aggression against Ukraine has continued for more than nine years and its full-scale military invasion of Ukraine enters its 20th month, the international community should not lose sight of its primary objective: presenting a united front to stop the aggression and win a peace which is comprehensive, just and lasting, ensuring that the rule of law prevails over the rule of force. Without a comprehensive, just and lasting peace in Ukraine there cannot be durable security in Europe; without an effective system of global governance based on international law, there cannot be international peace and security.

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc. 15842](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Iulian Bulai). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting).



7. Achieving peace means supporting the victory of Ukraine militarily, financially, politically, and diplomatically at bilateral and multilateral levels. The Assembly has already given its full backing to President Zelenskyy's peace formula as the most comprehensive proposal for a comprehensive, just and lasting peace in Ukraine, underlining that any peace talks can only take place under the conditions set out by Ukraine and after the withdrawal of the Russian troops and military equipment from the whole territory of Ukraine. Greater efforts are necessary to explain to the public and to international partners the stakes of this war for security in Europe and for the preservation of a system of global governance based on the rule of law.

8. Achieving a comprehensive, just and lasting peace means recognising the nature, extent and gravity of the crimes committed by the Russian Federation. The violence being perpetrated, the hideous character of some crimes including the deportation of Ukrainian children and sexual violence, and the rhetoric of the authorities indicate an attempt by the Russian Federation to annihilate the Ukrainian nation, waging a genocidal war. This deliberate policy stands out as a tragic reminder of an earlier attempt to wipe out Ukrainian nationhood, the Great Famine (the Holodomor), whose 90th anniversary will be commemorated in November 2023.

9. There are tens of thousands of civilians who have disappeared and who have been illegally abducted, taken to filtration camps, and deprived of their liberty as a result of the Russian Federation's war of aggression against Ukraine. Approximately 2 000 of these victims of enforced disappearances are over 70 years old. The Russian Federation's disrespect for the Geneva Convention relative to the Protection of Civilian Persons in Time of War is just one example of the Russian Federation's brazen and systematic neglect of its international legal obligations.

10. Since the beginning of the full-scale military invasion, the Russian Federation has not hesitated to use migrants, energy, ecocide, economic leverage, the passportisation of Ukrainian citizens, and the forcible deportation of Ukrainian children as weapons. Illegal fake elections and referendums organised by the Russian Federation in the illegally and temporarily occupied territories of Ukraine, most recently on 8-10 September 2023, are a travesty of democracy and a weaponisation of political freedoms. Likewise, the decision of the Russian Federation to exit the Black Sea Grain Initiative in July 2023 is a further weaponisation of trade and food, intended to increase global instability and weaken international resolve in supporting Ukraine.

11. Achieving a comprehensive, just and lasting peace means setting up a comprehensive system of accountability of the Russian Federation for its crimes. In this regard, the Assembly welcomes the launch, in the form of an Enlarged Partial Agreement of the Council of Europe, of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine. On the strength of the political momentum created by the Reykjavík Summit, it reiterates its call to setting up an international mechanism to compensate the victims and a Special International Tribunal to investigate and prosecute the political and military leadership of the Russian Federation for the crime of aggression against Ukraine.

12. Achieving a comprehensive, just and lasting peace in Ukraine means investing in its reconstruction so that it is sustainable from the economic, social, environmental and political points of view. Physical reconstruction according to the principle of "Build Back Better" must rely on strong and resilient public institutions at all levels, good democratic governance and the protection of human rights and fundamental freedoms, in the framework of the respect of the rule of law. In this regard, the Assembly reiterates its call for an extensive support of the Action Plan for Ukraine 2023-2026, which is instrumental to build back better democratic resilience in Ukraine.

13. The way in which the international community responds to the Russian Federation's war of aggression against Ukraine will set the course of European history and affect the system of global governance in the years to come. The Russian Federation has blatantly and unashamedly violated the most fundamental principles enshrined in the Charter of the United Nations and paralysed the functioning of the United Nations Security Council. Securing a comprehensive, just and lasting peace entails re-establishing the respect of the rule of law, including the obligation for all States to refrain from the threat or the use of force against the territorial integrity or political independence of any State, as pointed out at point 5 of President Zelenskyy's peace formula.

14. In light of these considerations, the Assembly:

14.1. decides to recognise the Great Famine (the Holodomor) as an act of genocide intended to break the backbone of Ukrainian nationhood, language and culture, and commemorates its victims;

- 14.2. encourages the parliaments of Council of Europe member States and other parliaments which have not yet done so to adopt resolutions commemorating the victims of the Holodomor, and recognising it as a genocide.
15. As regards the establishment of a comprehensive system of accountability, the Assembly:
- 15.1. gives it full support to the Enlarged Partial Agreement of the Council of Europe on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, and invites the largest possible number of countries to join;
- 15.2. calls on the countries represented in the Conference of Participants of the Register of Damage to swiftly advance to ensure the Register of Damage is operational as soon as possible and that the Register relies, amongst other sources, on the information coming from Ukrainian non-governmental organisations and human rights defenders; and to provide periodic reporting on its functioning;
- 15.3. calls on member and non member States and other States to swiftly advance on future steps towards accountability and justice, namely the establishment of a comprehensive compensation mechanism, including an international commission for the examination of claims for the damages recorded in the Register of Damage, and a compensation fund to pay out the decisions for compensation of damage awarded by the commission, in particular by confiscating and otherwise using the Russian Federation's assets to pay for war damages in Ukraine;
- 15.4. supports the activity of the "core group" of countries prepared to support the creation of a special international tribunal for the crime of aggression and calls on the "core group" to come to an agreement on its legal form as soon as possible, taking into account the need to maximise its international legitimacy and to minimise possible legal issues, in particular regarding the possible reliance of key suspects on personal or functional immunity;
- 15.5. calls on the international community to strongly support the International Criminal Court (ICC) and the Joint Investigation Team (JIT), including the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA), to investigate and prosecute the numerous war crimes and crimes against humanity that Russian soldiers, commanders and their proxies have committed or ordered in Ukraine, since the beginning of the aggression in 2014, as well as the crime of aggression committed by the political and military leadership of the Russian Federation, and support efforts to bring to justice those responsible for the forcible transfer of Ukrainian children;
- 15.6. standing in solidarity with all Ukrainian victims of enforced disappearances, their families and relatives, calls on the international community to demand:
- 15.6.1. that the Russian Federation compiles a list of illegally detained persons as a result of the aggression against Ukraine for its transmission to the United Nations, Ukraine or a third country that will ensure their return to Ukraine;
- 15.6.2. the immediate and unconditional release of victims of enforced disappearances, the dismantling of filtration camps, and the punishment of the perpetrators.
16. Recalling the speech delivered by President Zelenskyy to the United Nations General Assembly in September 2023, the Assembly calls on all States that uphold the rules-based international order to:
- 16.1. support President Zelenskyy's peace formula;
- 16.2. support Ukraine in its struggle to defend its independence, sovereignty and territorial integrity by providing political, financial, legal, humanitarian and military assistance, and by mobilising the resources that will be necessary to finance the reconstruction of Ukraine, redress environmental damage, and restore the rich cultural and religious heritage of the country.
17. Welcoming the initiative of the Council of the European Union to hold a meeting of Foreign Ministers in Kyiv on 2 October 2023, for the first time ever in a non-European Union member State, the Assembly calls on parliaments and governments of Council of Europe member States to spare no efforts to support Ukraine in its path towards accession to the European Union as a fully-fledged member.

18. Welcoming the conclusions of the European Conference of Presidents of Parliaments held in Dublin on 28-29 September 2023, which stressed the contribution that national parliaments can give in setting the course of Europe's future, the Assembly:

- 18.1. invites parliaments of member and non-member States to support Ukraine by:
  - 18.1.1. holding governments to account in their resolve to secure the victory of Ukraine and a comprehensive, just and lasting peace;
  - 18.1.2. ensuring the relevant budgetary resources and the necessary legislative decisions;
  - 18.1.3. raising awareness among their citizens about the stakes of the war;
  - 18.1.4. working towards the implementation of an effective system of accountability of the Russian Federation;
  - 18.1.5. stepping up all possible efforts to ensure the return of deported Ukrainian children to their families;
  - 18.1.6. addressing the alarming situation of Ukrainian political prisoners illegally detained by the Russian Federation so that all those unjustly incarcerated for their political beliefs are immediately released;
- 18.2. encourages parliaments to boost parliamentary diplomacy, inter-parliamentary dialogue and diplomatic efforts to rally allies in support of Ukraine at the global level, and promote a multilateral system of global governance firmly rooted in the rule of law;
- 18.3. contributes by providing expertise and advice, to greater institutional capacity of the Verkhovna Rada and to strengthening Ukraine's democratic resilience;
- 18.4. encourages parliaments to actively participate in the parliamentary dimension of the International Crimea Platform, including taking part in its forthcoming Second Parliamentary Summit to be held in Prague, Czech Republic, on 23-24 October 2023;
- 18.5. invites parliaments of member States to keep open channels of dialogue with democratic opposition forces in the Russian Federation and in Belarus which respect Council of Europe values, including the specific criteria established in this regard, support the victory of Ukraine, respect the territorial integrity of Council of Europe member States and publicly condemn Russian aggression.



## Resolution 2517 (2023)<sup>1</sup>

Provisional version

# Humanitarian situation in Nagorno-Karabakh

Parliamentary Assembly

1. Recalling Azerbaijan's "commitment to a peaceful settlement of the Nagorno-Karabakh conflict" as specified in [Opinion 222 \(2000\)](#), the Parliamentary Assembly strongly condemns the military operation launched by the Azerbaijani army in Nagorno-Karabakh on 19 September 2023. The Assembly recognises the territorial integrity of Azerbaijan. It underlines that this entails the responsibility of this country for the actions it takes within its internationally recognised borders.

2. The Assembly notes that this military operation took place after a ten-month period during which the Armenian population of this region has been denied free and safe access through the Lachin Corridor, the only road allowing it to reach Armenia and the rest of the world, leading to a situation of extremely acute food and supply shortages and high vulnerability of all inhabitants. This was in clear disregard of the provisional and interim measures addressed to Azerbaijan by the International Court of Justice and the European Court of Human Rights, whose decisions also noted the obligation of Azerbaijan under the 2020 Trilateral Statement to "guarantee the security of persons, vehicles and cargo moving along the Lachin Corridor in both directions". In this context, the Assembly recalls the most recent decision of the European Court of Human Rights of 22 September 2023 to indicate interim measures under Rule 39 of its Rules in respect of Azerbaijan and urges Azerbaijan to implement them without further delay.

3. The Assembly deeply regrets that just at a time when the situation concerning the transport of the humanitarian supply to the population seemed to improve and a glimpse of hope was emerging, a contributing factor to the escalation of the situation was the killing of Azerbaijani civilians and law enforcement personnel in a mine explosion and Azerbaijan took the decision to launch this show of force. Indeed, the combination of acute food and supply shortages for the population over a period of months, followed by a military operation and the opening of the corridor towards Armenia for departures, following each other in such short succession, could be perceived as being designed to incite the civilian population to leave the country.

4. The Assembly strongly believes that this long-standing and tragic conflict can only be resolved peacefully, through dialogue and unambiguous signals of goodwill, and on the basis of the applicable international law, fully respecting the human rights of everyone living there.

5. The Assembly recalls the positive obligations of Azerbaijan to ensure the protection of everyone living in its sovereign territory and under its jurisdiction, including the Armenian population of this region. These obligations are enshrined in the international human rights treaties to which Azerbaijan is a party, in particular the European Convention on Human Rights (ETS No. 5) and the Framework Convention for the Protection of National Minorities (ETS No. 157), the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

6. The Assembly underlines the obligation now incumbent on Azerbaijan, under Articles 2 and 3 of the European Convention on Human Rights, to conduct a thorough, transparent, independent and effective investigation into the deaths, disappearances and allegations of ill-treatment which occurred during and after

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc. 15840](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Domagoj Hajduković). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting).

See also [Recommendation 2260 \(2023\)](#).



its recent military operation. It also has an obligation under Protocol No. 4 to the Convention (ETS No. 46) to respect the right of the Armenians of this region to freedom of movement, including the right to leave any country (Article 2 of Protocol No. 4), and the right to enter the territory of the State of which they are nationals (Article 3 of Protocol No. 4). These rights, as well as the right to respect for private and family lives and their homes (Article 8) and the right to the peaceful enjoyment of possessions (Article 1 of Protocol No. 1 (ETS No. 9)) would be breached if the Armenians who have fled the region were to be prevented from returning voluntarily to the homes and lands they left behind or if these were to be transferred or *de facto* expropriated.

7. The Assembly recalls that Azerbaijan is further bound by international standards for the protection of national minorities and for the prevention of population displacement and has moreover the obligation to provide and allow for humanitarian assistance to those Armenians remaining as of today on its territory in the region.

8. The Assembly notes the promises made by the Republic of Azerbaijan that the rights and freedoms of the Armenian residents will be ensured in line with its Constitution and applicable international obligations, including those mentioned above. The Assembly notes the announcement of the plans of the Government of the Republic of Azerbaijan with respect to the reintegration of Armenian residents and ensuring their rights, including in such areas as security, socio-economic development and religious, cultural and linguistic rights.

9. The Assembly welcomes the invitation by Azerbaijan to the United Nations to visit the region and notes the preliminary conclusions of the United Nations mission that took place on 1 October 2023. It also welcomes the planned visit by the Council of Europe Commissioner for Human Rights to Azerbaijan, including its Nagorno-Karabakh region, and the co-operation of the Azerbaijani authorities to facilitate this visit. The Assembly expects that this invitation will be extended to its members as well.

10. The Assembly has witnessed with great sadness and a sense of powerlessness the massive exodus over recent days of the Armenian population from this region of Azerbaijan, following on immediately from the launch of the military operation and the agreement reached by the Azerbaijan authorities with the self-proclaimed authorities, who have announced their dissolution.

11. Strongly regretting that almost the entire Armenian population of the region – more than 100 600 persons at the time of the adoption of this resolution – has left its ancestral homeland and fled to Armenia, certainly out of genuine threat of physical extinction, a long-standing policy of hatred in Azerbaijan towards Armenians and a lack of trust in their future treatment by the Azerbaijani authorities, the Assembly recognises the huge responsibility now placed upon Armenia to cope with the refugee crisis underway. The Assembly also notes, according to the available information, that the relevant independent bodies present on the ground, such as the United Nations Agencies, have not recorded incidences of mistreatment by Azerbaijani authorities of Armenians leaving for Armenia. It welcomes the declarations of support and solidarity clearly expressed in Armenia for the refugees and calls on the Council of Europe member States to accompany Armenia in this endeavour by providing not only financial support but also expertise, in particular in the area of mental health and psychological support for this traumatised population. The Council of Europe member States should also be ready to demonstrate European solidarity in welcoming a part of the refugee population, should those persons wish to settle elsewhere.

12. The Assembly regrets the human tragedy unfolding today, as well as the long-standing and continuing failure on the part of the authorities of Azerbaijan to reassure the Armenian population of this region of their safety and the full respect of their rights, and to guarantee an approach to their future, free of acts or expressions of reprisals or revenge for the events which took place in the 1990s and during the 2020 war.

13. In its [Resolution 2508 \(2023\)](#), the Assembly noted the lack of acknowledgment on the part of the leadership of Azerbaijan for the very serious humanitarian and human rights consequences stemming from the blockade of the Lachin Corridor. The factual situation today, with the massive exodus of the almost entire Armenian population from this region, has led to allegations and reasonable suspicion that this can amount to ethnic cleansing. The Assembly notes in this respect that the practice of ethnic cleansing, may give rise to individual criminal responsibility under international law, in so far as it has the characteristics of specific war crimes (ordering the displacement of civilian population) or crimes against humanity (deportation or forcible transfer of population and persecution against any identifiable group), in accordance with the Rome Statute of the International Criminal Court and general international law. The Assembly notes the strong statements of Azerbaijan refuting such allegations and suspicions and calls upon the authorities to spare no efforts in proving in deeds and words that this is not the case.

14. The Assembly strongly believes that this tragic exodus of almost a whole population from its ancestral homeland must not be accepted as the new reality: it is not too late for Azerbaijan to redress the situation and prove its goodwill. As a member State of the Council of Europe, Azerbaijan can and should demonstrate, at this difficult time, its willingness and clear intention to calm fears and uphold its obligations under the human rights instruments to which it is a party, and its commitment to the core values of our Organisation.

15. Each man, woman, elderly person or child who has left their home because of their belief that their personal and collective security as Armenians would be in peril after the recent events in the region will have their own story to tell. Beyond these individual human stories, the security and stability of the entire South Caucasus region are at stake and must be preserved, and for this reason, the Assembly calls on Azerbaijan to do everything within its power to demonstrate its willingness to live in peace with its neighbour, Armenia. The Assembly expects both Armenia and Azerbaijan to fully respect each other's territorial integrity and sovereignty, as well as the inviolability of their respective borders. The Assembly calls for greater regional co-operation and for the opening of regional connectivity links based on full respect of countries' sovereignty, territorial integrity and jurisdiction, as well as on the principles of equality and reciprocity. This is particularly important in the context of a possible transport link with Nakhchivan which cannot be established against the will of Armenia or to the detriment of its freely determined national interest. In this context, the Assembly supports all efforts directed towards the normalisation of relations between Armenia and Azerbaijan, based on mutual recognition of sovereignty, inviolability of borders and territorial integrity, on the basis of the 1991 Almaty Declaration.

16. It is now incumbent upon Azerbaijan to create the climate of trust and material conditions for the Armenians of this region to be able to return to their homeland. It should indeed take active steps to encourage and reassure them to do so. This involves gaining their confidence in the willingness of Azerbaijan to guarantee and uphold the protection of their lives and rights, including the right to liberty and security, the right to education in their own language, freedom of expression and freedom of assembly and association, the prohibition of discrimination, the protection of their religious and cultural rights and their right to property, as well as the possibility to maintain transborder relations with Armenia and their relatives living there.

17. The Assembly believes that this will require genuine, immediate and public investment on the part of Azerbaijan in clear and unequivocal statements to this end, accompanied by discussions with the relevant parties on the concrete measures which will be put in place to protect the security, language, religious, cultural and other minority rights of Armenians from this region. Any expressions of intolerance or revenge for past events are particularly unwelcome in this period, and the Assembly calls upon Azerbaijan to pay particular attention to this aspect. Indeed, given previous such statements there is a clear onus upon the political leadership at the highest level to express its firm rejection of any expressions of hate or revenge. The Assembly calls on Azerbaijan to extend its protection to the Armenian cultural heritage of the region.

18. Undoubtedly, a process of transitional justice to address the crimes which were perpetrated in the 1990s and during the 2020 war will be indispensable to ensure durable and sustainable peace in the region and between Armenia and Azerbaijan. The Assembly considers that such a process, while complex, may prove more fruitful in restoring confidence than aggressive actions, rhetoric or the instigation of criminal proceedings against the former leaders of Nagorno-Karabakh. The Assembly calls on Azerbaijan to release all detained representatives of Nagorno-Karabakh as well as all Armenian prisoners of war currently held in Azerbaijan.

19. The Assembly welcomes the deployment by the United Nations of a mission to Nagorno-Karabakh for the first time in more than 30 years, the aim of which is to assess humanitarian needs in the region. It expresses its hope that this visit will be swiftly followed by an agreement on the part of the Azerbaijani authorities to organise high-level and fact-finding visits from other international bodies, in particular relevant institutions and bodies of the Council of Europe.

20. In this respect, the Assembly believes that a visit of the Commissioner for Human Rights in the very near future and the visit later this year of the Advisory Committee on the Framework Convention for the Protection of National Minorities in the context of its regular monitoring cycle would be a clear sign of Azerbaijan's willingness to engage with the Organisation on the measures now needed. The facilitation of such visits will allow the Organisation to gain the best overview of the situation, conduct a more effective dialogue with the authorities of Azerbaijan and to lend its expertise and support in redressing the situation, including as regards the protection and reassurance of the remaining Armenian population, the safeguarding of the property and other assets of those who have sought refuge abroad in the current situation, and the necessary measures to encourage the return of this population to its homeland.

21. In particular, the Council of Europe could offer its expertise in confidence-building measures, aiming to allow the Armenian population of this region to feel confident enough to return to its homeland and to live in peaceful and trustful relations both with the Azerbaijani authorities and its neighbours in the region.

22. The Assembly considers that in addition to the urgent need for access to the region for the Council of Europe relevant institutions and bodies, the authorities of Azerbaijan should regularly provide the Secretary General and the Committee of Ministers with full and detailed information on the measures which have already been taken and that are planned to protect and enhance the rights and freedoms of the Armenians from this region under the European Convention on Human Rights, in particular with a view to securing confidence in a safe return for those who so wish.

23. Conscious of the focused scope of this report, which is centred exclusively on the humanitarian situation which has affected the Armenian population of Nagorno-Karabakh following Azerbaijan's military operation of 19-20 September 2023, the Assembly stands ready to examine in further depth the political and legal implications of the unfolding situation and the measures to come. Should Azerbaijan fail to fulfil its obligations, the Assembly shall have no other alternative than to call for the initiation of a complementary joint procedure between the Committee of Ministers and the Parliamentary Assembly in response to a serious violation by Azerbaijan of its statutory obligations and challenge the credentials of the Azerbaijani delegation at its first part-session of 2024.





## Resolution 2518 (2023)<sup>1</sup>

Provisional version

# Call for the immediate release of Osman Kavala

Parliamentary Assembly

1. The Parliamentary Assembly recalls that Osman Kavala, a human rights defender and philanthropist, has been detained in Türkiye since 18 October 2017, charged with three different offences in an alternating manner which led to his continuous detention. He was initially detained on charges of having sought to overthrow the constitutional order and the government through force and violence in relation to the 2013 Gezi Park demonstrations and the 2016 attempted coup. Osman Kavala was subsequently acquitted in a domestic judgment of 18 February 2020. This did not lead to his release. Instead, the Council of Judges and Prosecutors initiated a preliminary investigation to consider taking disciplinary action against the three judges who acquitted Osman Kavala, and the prosecution appealed his acquittal. On 25 April 2022, the first instance court convicted Mr Kavala for attempting to overthrow the government by force with respect to the Gezi Park events only, and sentenced him to aggravated life imprisonment. The charges in respect of the attempted coup were not part of his conviction. He was also acquitted of additional charges relating to espionage, which had been added since his initial detention. On 28 December 2022, the Istanbul Regional Court of Appeal rejected Mr Kavala's appeal against the conviction and sentence and on 28 September 2023, the Court of Cassation rejected his further appeal, meaning that his conviction and aggravated life sentence are now final.

2. Throughout the process, the prosecution's reasoning has been based on Mr Kavala meeting with the then Council of Europe Commissioner for Human Rights, with members of the European Parliament, diplomats and journalists, assisting individuals to file applications before the European Court of Human Rights ("the Court"), knowing members of civil society in Türkiye and internationally, having peacefully participated in demonstrations, and other work to further human rights causes, such as supporting people in exercising their right to freedom of expression, association and assembly. None of these elements shows criminal conduct; indeed these are all activities that fall within the classic role of a human rights defender, and many, if not all, of [them] involve the ordinary exercise of the rights enshrined in the European Convention on Human Rights (ETS No. 5, "the Convention").

3. The Assembly further recalls that the Court found in 2019 that Osman Kavala's detention was in violation of, *inter alia*, Article 18 taken together with Article 5(1) of the Convention as it was "established beyond reasonable doubt that [his detention] pursued an ulterior purpose [...] namely that of reducing the applicant to silence". In particular, the Court found that the evidence against him was not sufficient even to warrant a reasonable suspicion that he had committed these offences. Indeed, in the 2019 judgment, the Court examined the indictment in great detail and held that there was no credible evidence to plausibly conclude that there existed a reasonable suspicion in support of criminal charges, let alone such a serious charge. The Court also held that Türkiye was to take all necessary measures to put an end to Mr Kavala's detention and to secure his immediate release.

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1. *Assembly debate* on 12 October 2023 (23rd sitting) (see [Doc.15841](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Petra Bayr). *Text adopted by the Assembly* on 12 October 2023 (23rd sitting). See also [Recommendation 2261 \(2023\)](#).



4. Judgments of the Court finding a violation of Article 18 of the Convention – essentially an intentional violation for ulterior motives – are rare in the history of the Convention, but it is of extreme concern that any such cases should exist within the Council of Europe member States. Moreover, in line with the criteria set out in Resolution 1900 (2012), the finding of a violation of Article 18 clearly indicates that Osman Kavala falls within the Assembly’s definition of political prisoner.
5. The Assembly stresses that, under Article 46(1) of the Convention, member States are bound to comply with final judgments of the Court. However, in spite of a clear judgment of the Court requiring his immediate release, clear, repeated decisions and resolutions of the Committee of Ministers calling for his immediate release, as well as such calls in Assembly resolutions, the Turkish authorities have, up until now, not released Osman Kavala. Indeed, the Turkish authorities continued with his detention, prosecution and conviction even though the evidence against him in the case file was not credible even to warrant a reasonable suspicion that he had committed these offences, let alone a prosecution or a conviction.
6. This led the Committee of Ministers of the Council of Europe to refer the case to the Court under Article 46(4) of the Convention questioning whether Türkiye had fulfilled its obligation to implement the 2019 judgment thus initiating infringement proceedings. In its judgment of 11 July 2022, in the infringement proceedings under Article 46(4), the Court held that Türkiye had indeed failed to fulfil its obligation under Article 46(1) to abide by its Kavala judgment. It found that the additional charges of espionage were based on identical facts to its previous findings, thus there was still no reasonable suspicion that Mr Kavala had committed any criminal offence. It also stated that the primary obligation to release Osman Kavala, resulting from the initial judgment, continued to exist.
7. The Assembly notes that Article 46(4) judgments are extraordinarily rare; the Kavala judgment is only the second such judgment ever and this is the only case of a member State failing to implement a judgment even following an Article 46(4) judgment.
8. The Assembly is deeply concerned that, despite the clear obligation on Türkiye to immediately release Osman Kavala, he remains in prison. The continued refusal by the Turkish authorities to effectively execute this judgment is not only a personal tragedy for Osman Kavala and his family; it is a tragedy for the rule of law and justice in Türkiye. Domestic courts, in the various judgments relating to Osman Kavala, have not meaningfully engaged with the findings of the European Court of Human Rights when reviewing his case and have certainly not respected those judgments. Given that the Turkish Constitution gives precedence to the provisions of international treaties duly in force in the event of a conflict as to the scope of fundamental rights and freedoms between the treaty and a domestic statute, this is difficult to understand.
9. Following the recent Court of Cassation judgment, which did not even mention the Kavala judgments of the European Court of Human Rights, Mr Kavala’s conviction has become final and the Turkish courts that dealt with Mr Kavala’s case have proved themselves neither capable nor willing to respect Türkiye’s international human rights obligations in this matter. Although Mr Kavala may now avail himself of the right to individual application to the Constitutional Court, it is questionable whether he has a real prospect of success given the Constitutional Court’s decision on his previous application concerning the unlawfulness of his detention.
10. The Assembly insists that it is incumbent upon the Turkish authorities, at the highest levels, to take swift and meaningful action to comply with the Court’s judgment and to release Osman Kavala immediately. Türkiye has an obligation to execute binding judgments of the Court and a refusal to do so is incompatible with its international obligations. Such a refusal casts a shadow on the commitment of Türkiye to respecting the rule of law, human rights and democratic values, which are central to all Council of Europe member States. Thus, in light of the exceptional circumstances present, the Assembly believes that the time has now arrived to take steps to initiate the complementary joint procedure foreseen in its [Resolution 2319 \(2020\)](#).
11. The Assembly regrets the role played by Turkish prosecutors and judges who dealt with Osman Kavala’s case, in ensuring, through misuse of the law, his unlawful detention, prosecution and conviction. It is incumbent upon Türkiye to ensure that prosecutors and judges exercise the powers that have been bestowed upon them in full compliance with the rule of law, the interests of justice and human rights.
12. This truly exceptional case is undermining the basis of the Convention system as a whole. It is imperative that action is taken swiftly to secure the release of Osman Kavala and to ensure that Türkiye upholds the rule of law and human rights and implements the two Kavala judgments of the Court.

13. The Assembly therefore calls on Türkiye to:
  - 13.1. respect its international obligations under the Statute of the Council of Europe (ETS No. 1) and under the European Convention on Human Rights;
  - 13.2. in accordance with Article 46(1) of the Convention, comply with binding judgments of the Court, and, in particular, to immediately release the human rights defender, Osman Kavala, who remains unlawfully detained in Türkiye;
  - 13.3. urgently improve the legal framework and conditions for respect for the rule of law, the independence of the judiciary, the protection of human rights and compliance with the Court's judgments within Türkiye, so that judges can act in accordance with their constitutional roles, with sufficient guarantees that their independence will not be interfered with, that judges and prosecutors are not enabled or do not feel encouraged to misuse the law for ulterior purposes, and to ensure that systemic failures are addressed, including through urgent reform of the Council of Judges and Prosecutors, using the relevant expertise of the Council of Europe.
14. The Assembly calls on Council of Europe member and observer States and the European Union to:
  - 14.1. engage with the Turkish authorities at the highest levels to urge the immediate release of human rights defender, Osman Kavala;
  - 14.2. undertake, as a matter of urgency, action to support improvements to the protection of the rule of law and of human rights in Türkiye;
  - 14.3. apply, should Türkiye fail to release Osman Kavala, "Magnitsky legislation" or other existing legal instruments to impose targeted sanctions against those officials, including prosecutors and judges, who are responsible for the unlawful and arbitrary deprivation of liberty of Osman Kavala.
15. This fundamental issue is also part of the dialogue between the European Union and Türkiye and, in this context, the Assembly calls on the European Union to take full account of this serious situation when determining its financial support to Türkiye so that priority is given to work that promotes pluralism in a society which respects human rights and the rule of law.
16. If Osman Kavala has not been released from prison by 1 January 2024, this Assembly recalls its ability to challenge the credentials of the Turkish delegation at its first Part Session of 2024.
17. For its part, the Assembly stands ready to work together closely with the Committee of Ministers, the Secretary General and Türkiye in ensuring the execution of the Kavala judgment and in securing the protection of the Convention system as a whole, and ultimately the credibility of the Organisation, in line also with the Reykjavik Declaration and the emphasis put on the execution of the Court judgments.





**Resolution 2519 (2023)<sup>1</sup>**

Provisional version

## **Examining the legitimacy and legality of the ad hominem term-limit waiver for the incumbent President of the Russian Federation**

Parliamentary Assembly

1. The Parliamentary Assembly stresses the importance of presidential term limits, in particular in countries where the constitution provides for a strong presidency, as opposed to those where parliament is supreme.

1.1. A president together with their political allies usually wields substantial power to nominate allies to high positions in the State, including roles in the court of accounts, electoral bodies, the central bank, the leadership of the armed forces or other security bodies. The checks and balances provided by these bodies may thereby tend to erode over time as these key positions are progressively occupied by the allies of the president. At the same time, dissenting voices gradually disappear from the president's inner circle. Ultimately this has a high cost for the country and for the president, as a range of opinions and a functioning system of checks and balances indubitably contribute to preventing large-scale errors. Presidential term limits therefore ensure that the checks and balances provided by independent institutions do not erode over time.

1.2. Term limits also serve to keep in check those who might be tempted to use their presidential power to curtail any opposition. When they know that their term is finite and wish to live out the rest of their lives in their home country, they have an incentive not to use excessive force against political opponents, for they know that one day one of them may be elected as their successor and they will no longer be able to exercise political power to protect themselves from the consequences of their acts.

1.3. Once a president has taken the path of severe oppression of the opposition and cruelty against his or her own people, he or she risks spending the rest of their life trying to avoid accountability by clinging to office at ever higher cost to their own country, their own people and ultimately themselves.

1.4. Civil society stands as a cornerstone of any democratic nation. When there is a lack of political opposition, it not only undermines the rule of law but also results in a less diverse and enduring democratic environment. This, in turn, causes reduced citizen engagement and fosters indifference to the nation's current affairs, making the population susceptible to state propaganda.

1.5. For the above and other reasons, the Assembly considers that any country that extends presidential term limits beyond the usual two terms of four or five years is taking a large step away from democracy and the rule of law.

2. The Assembly notes that Vladimir Putin has been continuously in power as President or Prime Minister since 2000 and that the changes made to the Russian Constitution enacted in July 2020 allow him to remain in office as President until 2036, when he will be 83 years old. The growing brutality of repression against internal opponents and the war of aggression against Ukraine show that the cost of the lack of checks and balances in the Russian Federation is indeed becoming ever higher.

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1. *Assembly debate* on 13 October 2023 (24th sitting) (see [Doc. 15827](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pieter Omtzigt). *Text adopted by the Assembly* on 13 October 2023 (24th sitting).



3. The Assembly recalls that the European Commission for Democracy through Law (Venice Commission) in its Interim Opinion of 23 March 2021 found that the *ad hominem* term-limit waiver for the incumbent President of the Russian Federation violates both Russian constitutional law and international legal principles.

3.1. The relevant constitutional changes were adopted in an *ad hoc* accelerated procedure not foreseen in the Russian Constitution. The regular constitutional amendment procedure requires the convocation of a Constitutional Assembly and that there shall be specific amending laws on the different changes proposed, rather than a single *en bloc* vote on all amendments. Instead, a novel *ad hoc sui generis* procedure was introduced by the Amending Law. Under this procedure, the President requested the Constitutional Court's opinion on the compatibility with the Constitution of the Amending Law, delivered within seven days. Then a single *ad hoc* "nationwide vote" was held that was not subject to the strict safeguards applicable to referendums.

3.2. The Assembly therefore fully agrees with the conclusion of the Venice Commission that the novel, *ad hoc* procedure used to amend the Constitution creates an obvious tension with Article 16 of the Constitution which safeguards the "firm fundamentals of the constitutional system of the Russian Federation".

3.3. The Assembly also fully shares the Venice Commission's view that "[a] decision to alter or remove presidential term limits should be subject to thorough public scrutiny, as it has a significant impact on the political system, a country's stability and on confidence in the electoral process. In the long term, a reform of these provisions may affect democratic quality or even democratic endurance. A broad consensus, as well as respect for constitutional and legal procedures, are crucial to maintain strong democracy and confidence in institutions and electoral processes."

3.4. It also agrees with the Venice Commission in that "[t]o the extent that constitutional amendments strengthening or prolonging the power of high offices of state are proposed... such amendments (if enacted) should have effect only for future holders of the office, not for the incumbent."

3.5. The Assembly therefore considers in view of the hasty procedure followed for the adoption of the amendments in question, the *en bloc* vote on very disparate issues, including protection of social rights, and the fact that the incumbent himself benefits from these changes, that the international standards summed up by the Venice Commission were clearly not met. The abolition of presidential term limits for the benefit of MM. Putin and Medvedev thus violates not only the Russian constitution, but also well-established international legal principles.

4. The overwhelming power of the President resulting from the extremely long term in office combined with the lack of any checks and balances such as a strong parliament, an independent judiciary, free media and a vibrant civil society has turned the Russian Federation into a *de facto* dictatorship.

5. These tendencies, with limited response from the international community, set a concerning precedent for countries lacking a robust democratic tradition, as seen in the case of Belarus, where the self-proclaimed president *de facto* maintains power despite the results of the 2020 elections not being recognised.

6. As the Russian war of aggression against Ukraine and its political and economic consequences show, dictatorships constitute a threat to international peace and security and to the territorial integrity and political independence of their neighbours, within the meaning of Article 2 of the Charter of the United Nations. The Russian Federation employs acts of aggression against sovereign nations as a strategy to enhance the President's domestic image, with the Chechen wars of the late 1990s, the Russian Federation's influence in the Transnistria region of Moldova, and its aggression against Georgia in 2008 serving as illustrative examples. Dictatorships also destroy the fundamental rights and the social and economic well-being of their own population. It is therefore in the interest first and foremost of the people of the Russian Federation, but also of Europe and the whole world that democracy be restored in the Russian Federation.

7. The Assembly recalls that all States parties to the Statute of the International Criminal Court are legally bound to arrest Vladimir Putin when he enters their jurisdiction on the basis of the arrest warrant issued by the International Criminal Court on 17 March 2023.

8. The Assembly calls on the member States of the Council of Europe to recognise Vladimir Putin as illegitimate after the end of his current presidential term and to cease all contact with him, except for humanitarian contact and in the pursuit of peace.

9. The Assembly finally reiterates its strong support for the creation of an *ad hoc* international criminal tribunal for the crime of aggression, which is needed in order to hold to account the Russian leadership, including Vladimir Putin, for the original crime enabling all other war crimes and crimes against humanity, namely the launch of the war of aggression against Ukraine.

10. The Assembly considers that the *ad hoc* international criminal tribunal should investigate all events on the territory of Ukraine from February 2014, starting with the illegal annexation of Crimea, the war in the Donbas region and the downing of flight MH17.







**Resolution 2520 (2023)<sup>1</sup>**

Provisional version

## Preventing addictive behaviours in children

Parliamentary Assembly

1. The Parliamentary Assembly is dismayed by the addictive behaviours of children and the impact this has on their mental and physical health and their development. It notes that to date prevention policies have not succeeded in curbing the growth in these behaviours or the increasing number of forms they are taking.
2. Although cannabis is still one of the most widely used drugs, including by children, the continued emergence of new drugs is a growing problem factor where it comes to devising drug prevention policies. In addition, new addictive behaviours, linked mainly to the use of digital tools and applications, complicate attempts to address the problem. Exposure of children to addictive substances and addictive behaviours grew in the context of the Covid-19 pandemic and the ensuing socio-economic crisis. During lockdowns, pre-existing prevention measures often lacked flexibility and hence effectiveness.
3. The Assembly seeks to ensure respect for every child's right to a healthy life, as underlined in the United Nations Convention on the Rights of the Child, which guarantees "the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health" and the United Nations Sustainable Development Goal No. 3, whose aim is to ensure healthy lives and promote well-being for all at all ages, which includes the strengthening of "the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol".
4. The Assembly attaches importance to States' preventing or reducing addictive behaviours, thus eliminating their disastrous physical, psychological and social consequences, which hinder children's development and well-being. Bearing in mind the child's best interest, it proposes setting up flexible, responsive measures taking account of trends in addictive behaviours, based on a holistic approach to the situations which children face. In this respect, it should be noted that although addictive behaviours in children occur in all socio-economic settings, it is clear nonetheless that children living in disadvantaged environments or whose parents or close relatives use drugs are more prone to addictive behaviours.
5. The Assembly would also like to point out that for prevention and treatment of addictive behaviours as early as possible to be effective, measures must be introduced which target young children, including the very young, particularly when they are exposed to addictive behaviour in their environment.
6. In the light of the current lack of responsiveness or the inadequacy of policies to combat drugs and addictions in children, the Assembly considers it necessary for States to step up research on prevention and innovative prevention practices, both to combat addictions which have been known for some time and in the light of the addictive behaviours which have arisen in recent years.
7. Bearing in mind these considerations, the Assembly invites the Council of Europe member States to set up tools which help to prevent the use by children of the main substances, to develop comprehensive protective measures geared to various addictive behaviours and to identify long-term responses to new trends in addictive behaviours, in keeping with the child's best interest. Policies and action plans must include

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1. *Assembly debate* on 13 October 2023 (24th sitting) (see [Doc. 15830](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Ms Diana Stoica). *Text adopted by the Assembly* on 13 October 2023 (24th sitting).

See also [Recommendation 2262 \(2023\)](#).



research, prevention, risk reduction and treatment, and take stock of the actual experiences of children in different age categories, including young children. The Assembly insists on the protective approach of prevention policies aimed at children, including age-appropriate information about addictive substances and their consequences, and tools designed to limit access to them. In this connection, account should be taken of children's specific needs, with targeted action for certain more vulnerable categories and measures catering for the various types of addictive behaviours.

8. In particular, the Assembly invites the Council of Europe member States to:
  - 8.1. devise measures to strengthen the capacities of parents and families using drugs and alcohol to prevent addictions among the children of such families;
  - 8.2. develop innovative prevention mechanisms involving children and young adults in dialogue with their peers. It also suggests devising trainings for young children and adolescents on ways of resisting the negative influence of their classmates, adults, the media or an environment that encourages the use of drugs or alcohol;
  - 8.3. train adults working with children, particularly in schools, sports clubs and medical contexts, to detect addictive behaviours in children and to report them so that they can be dealt with or to deal with them directly;
  - 8.4. reinforce the prohibition on the supply or sale of drugs and alcohol to children, including through systematic and proportionate penalties for suppliers and dealers;
  - 8.5. set up reception spaces for children which are easily accessible and offer a comprehensive approach to the management of problems they must face, including psychological and social support designed to enhance their potential to manage difficult personal or external circumstances;
  - 8.6. assess the problem of the consumption of inhaling products and its impact on children's health;
  - 8.7. combat synthetic drugs, targeting trafficking aimed at children in particular.
9. The Assembly asks the member States to co-operate closely with the digital industry with a view to:
  - 9.1. prohibiting the online sale of psychoactive substances and alcohol to children and child access to online gambling and betting in the same way as in the real world;
  - 9.2. prohibiting any form of online advertising of these substances and offers of gambling and betting to children;
  - 9.3. setting up online child-appropriate prevention campaigns concerning online gambling and betting and the excessive use of digital devices.
10. The Assembly invites Council of Europe member States as well as observer States and States whose parliaments enjoy observer or partner for democracy status with the Assembly, which have not yet done so, to join the enlarged partial agreement which established the Council of Europe International Cooperation Group on Drugs and Addictions (Pompidou Group).



**Resolution 2521 (2023)<sup>1</sup>**

Provisional version

## Mental health and well-being of children and young adults

Parliamentary Assembly

1. The fulfilment of the right to health, as recognised by numerous international and regional instruments such as the International Covenant on Economic, Social and Cultural Rights and the European Social Charter (ETS No. 35), is fundamental for the well-being of every human being. This right also encompasses, as an essential component, the right to mental health: a state of mental well-being which allows the individual to realise their potential, cope with the normal stresses of life, work and participate in their community.

2. Children and young adults today face a world characterised by multiple crises and much uncertainty. The Covid-19 pandemic had a devastating effect on their mental health and well-being. However, challenges to their mental health and well-being were already present before the pandemic: Today's young generation has, in addition, lived through the global financial crisis and its repercussions (including misguided austerity measures), a cost-of-living crisis, uncertainties on the job market (*inter alia* linked to advances in machine learning and artificial intelligence), and a war in Europe. Moreover, global transformations such as the ever-intensifying climate crisis, the ageing of populations, digitalisation and rising inequalities have created significant uncertainties about the future young people and unborn generations can expect.

3. The imposition of restrictions related to Covid-19 adversely influenced the mental health of many individuals. The main victims, however, are reported to have been children, adolescents, and young adults, who were disproportionately affected by the disruption in education, social isolation, economic instability, and general uncertainty about the future. Their well-being and life satisfaction steeply declined during this period, thus putting them at a higher risk of developing mental health problems. Within this group, children and young people from disadvantaged socio-economic backgrounds, persons with disabilities, LGBTIQI+, minorities, refugees and undocumented migrants, undoubtedly suffered the most. The surge in mental health problems which occurred during the pandemic uncovered long-standing deficiencies in the way that mental health systems are organised, managed, and funded at national levels.

4. Against this background, the Parliamentary Assembly believes that States should seize this opportunity to advance with regard to improving mental health and recalls that the right to mental health includes access to timely and appropriate mental health care and treatment for all. A key step in this regard is to integrate mental health into national health systems, especially primary and community-based health services. The healthcare provided must be holistic and focus on treating the person as a whole, including addressing mental health, as well as social, economic and environmental factors that can impact a person's overall well-being, rather than just their physical symptoms. It is critical to raise awareness of these issues from a young age, also in order to "de-dramatise" problems related to mental health. Coercion in mental health must be phased out.

5. The Assembly welcomes the shift to a human rights-based approach to mental health and the recognition that there is "no health without mental health". It applauds recent efforts by the World Health Organization, the United Nations and other influential global actors in recognising mental health as an integral

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1. *Assembly debate* on 13 October 2023 (24th sitting) (see [Doc. 15829](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Simon Moutquin). *Text adopted by the Assembly* on 13 October 2023 (24th sitting).

See also [Recommendation 2263 \(2023\)](#).



component of health and a human rights development imperative. Good mental health is a cornerstone for the achievement of many goals in the 2030 Agenda for Sustainable Development. Moreover, the Assembly underlines the critical importance of reducing stigma and shame associated with mental health problems.

6. The Assembly recalls that human rights do not exist in a vacuum. As such, States' obligations towards fulfilment of mental health includes both immediate obligations and requirements to undertake deliberate, concrete and targeted actions to progressively realise other obligations. The Assembly joins the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in urging States to use appropriate indicators and benchmarks to monitor progress on mental health, with indicators to be disaggregated by factors including sexual orientation, gender identity, age, race, ethnicity, disability and socio-economic status.

7. In light of these considerations, the Assembly recommends that the Council of Europe member States:

7.1. build up strong health systems at national level and mainstream mental health across all policies by:

7.1.1. allocating the necessary funding to establish a well-functioning, human rights-compliant mental health system and ensure the appropriate training of mental health professionals;

7.1.2. decentralising health-care services, so that people get timely mental health care that meets their individual needs regardless of where they live;

7.1.3. implementing universal health coverage, thus removing financial barriers to mental health care, ensuring that everybody has access to these services, irrespective of their socio-economic status, ethnic background, sexual orientation, gender identity or legal status;

7.1.4. integrating mental health into primary and community-based services and treating mental health with the same attention and seriousness as physical health;

7.1.5. simplifying administrative procedures and bureaucratic processes to make them more user-friendly and provide better information to users and their carers on their rights;

7.1.6. offering holistic, multisectoral and low-threshold mental health care services, such as drop-in centres, community-based programmes, peer support, and phone and chat services;

7.1.7. implementing the necessary educational reforms and campaigns in order to end the stigma and misinformation associated with mental health issues, in collaboration with trusted persons and organisations in communities where this is the case;

7.1.8. providing appropriate mental health first-aid training in hospitals, schools and universities, workplaces, prisons and detention centres, and law enforcement;

7.1.9. designing targeted and inclusive health services that meet the needs of underserved communities, in particular refugees and migrants, persons with disabilities and LGBTIQ+ youth;

7.1.10. providing appropriate and necessary information, training, support and relief to families of young people struggling with mental health problems, including siblings, parents and other carers;

7.1.11. providing educational resources related to mental health to children, adolescents and young adults, as well as to their parents or other carers, in order to ensure the timely detection of mental health problems and provide information on how to maintain good mental health;

7.1.12. quickly responding to crises and emergency situations, including, but not limited to, wars, forced displacements and natural disasters, and developing national strategies on how to best support the mental health and well-being of children and young adults in such circumstances;

7.1.13. performing vulnerability screenings of refugees and asylum seekers and following the United Nations High Commissioner for Refugees (UNHCR) handbook on interpretation in asylum interviews; children should never be made to interpret the traumata of their parents;

7.2. take action to address other concerns that impact the mental health and well-being of children and young adults by:

7.2.1. ensuring equitable access to quality education to children and young adults, and meaningful work for young persons;

- 7.2.2. reducing socio-economic inequalities and making the fight against extreme child poverty a priority;
  - 7.2.3. empowering young people and including them in decision-making processes, taking their concerns seriously, including on issues such as the environment and racial discrimination, where young people are the stakeholders for the future;
  - 7.2.4. taking measures to tackle young people's financial and employment insecurity;
  - 7.2.5. encouraging employers to ensure appropriate work-life balance, leaving employees, including young people, with enough flexibility and time to rest and pursue other interests;
  - 7.2.6. taking measures to protect children and young people from being exposed to inappropriate and harmful content on social media;
- 7.3. take the necessary precautions to protect the mental health of children, adolescents and young adults in the event of a public health emergency or confinement period by:
- 7.3.1. keeping educational facilities open and functional for as long as this is possible, while taking into account the importance of protecting the population;
  - 7.3.2. facilitating equitable access to necessary equipment and materials for at-home learning, in the event that the continuous operation of educational facilities is no longer feasible;
  - 7.3.3. ensuring tailored follow-up and support to young persons with a history of mental health needs;
  - 7.3.4. ensuring that all measures taken to tackle the public health emergency are transparent, proportionate, and in line with the best interests of the child;
  - 7.3.5. consulting children and young adults with regard to any decision that may affect their rights, mental health and well-being;
  - 7.3.6. disseminating information specifically targeted to a younger audience, as seen in the good practice example of Norway.

8. The Assembly believes that parliaments have a responsibility to ensure that children's and young people's voices are listened to and incorporated into legislative processes, in order to promote a more inclusive and representative democracy. By creating spaces for dialogue and collaboration in parliaments, we as parliamentarians, can foster an environment where children and young people feel valued and understood, and can effect change. As such, the Assembly recommends that parliaments within the Council of Europe member States frequently invite children and young people to parliamentary hearings, get to know their point of view on matters that affect them and empower them in policy-making processes.





**Resolution 2522 (2023)<sup>1</sup>**

Provisional version

## The humanitarian crisis emerging for Afghanistan and Afghan refugees

Parliamentary Assembly

1. The Parliamentary Assembly reiterates its deepest concern at the ongoing situation in Afghanistan as well as the protracted Afghan refugee crisis as expressed in its [Resolution 2403 \(2021\)](#) “The situation in Afghanistan: consequences for Europe and the region”. It acknowledges that the situation dramatically worsened since August 2021.
2. The Assembly strongly condemns the exclusion by the *de facto* authorities, of ethnic and religious minorities as well as particular groups in society – especially the Hazaras, the Tajiks, Christians, LGBTIQ+ communities and women – from the management of public affairs and their exposure to discrimination and targeted violence.
3. The Assembly forcefully condemns the systemic violence against women and girls enshrined in rights-violating edicts. It considers that documented evidence exists which may justify the consideration of gender persecution under crimes against humanity in the International Criminal Court’s ongoing investigation on Afghanistan pursuant to Articles 5(b) and 7.1(h) of the Rome Statute.
4. The Assembly expresses its solidarity with the Afghan people and salutes the courage of all Afghans, not least women and girls, who strive to claim their rights in extremely dangerous and adverse circumstances inside Afghanistan and in exile.
5. The present resolution aims to explore concrete avenues for the Council of Europe and its member States to further address the immediate protection needs of Afghans whilst envisioning some policy co-ordination mechanisms beyond the humanitarian and short-term protection approach.
6. The reaffirmed values and standards by the Heads of State and Government of the Council of Europe in the Reykjavík Declaration constitute a robust baseline to delineate such an approach based on the respect of individual human rights as enshrined in the European Convention on Human Rights (ETS No. 5) as well as on solidarity across member States in Europe. This approach is also reinforced through political dialogue with external partners notably the United Nations and the European Union.
7. In this effort, the Assembly acknowledges [Resolution S/RES/2626\(2022\)](#) by the United Nations Security Council as well as the European Parliament [Resolution 2022/2955\(RSP\)](#) on “The human rights situation in Afghanistan, especially the deterioration of women’s rights and attacks against educational institutions.”
8. The Assembly notes that Afghans are the third largest nationality seeking asylum across Europe among them many unaccompanied children and teenagers in transition to adulthood. It recalls the commitments by the Council of Europe member States enshrined in the 2021-2025 Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe ([CM\(2021\)67-final](#)), in

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1. *Assembly debate* on 13 October 2023 (24th sitting) (see [Doc. 15831](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Birgir Thórarinsson). *Text adopted by the Assembly* on 13 October 2023 (24th sitting).



Recommendation of the Committee of Ministers to member States [CM/Rec\(2022\)22](#) on human rights principles and guidelines on age assessment in the context of migration and its explanatory memorandum, as well as in Recommendation [CM/Rec\(2019\)4](#) on supporting young refugees in transition to adulthood.

9. People fleeing persecutions, hunger, or insecurity, be they recognised as refugees or not, cannot be blamed for seeking safety and integration. The Assembly warns against anti-migrant and anti-refugee sentiment mounting across Europe, including against Afghans.

10. With 95% of displaced Afghans in Pakistan and in Iran, the Assembly acknowledges that both countries have contributed an important share to the reception of these people and stresses the importance for member States to contribute to this effort as well. It regrets that many member States lowered their annual resettlement quotas at a time when reception needs have never been higher according to 2022 Global Trends Report on forced displacement of the United Nations High Commissioner for Refugees (UNHCR).

11. In line with UNHCR's Guidance Note on the International Protection Needs of People Fleeing Afghanistan issued in February 2023:

11.1. the Assembly considers deportations to Afghanistan are not acceptable under the current circumstances and that forced removals should be immediately halted;

11.2. any voluntary return of Afghans including via state-sponsored programmes should be monitored in co-ordination with the UNHCR in line with applicable the European Convention on Human Rights standards and European Court of Human Rights case law on the various aspects of vulnerability to which returnees may be exposed;

11.3. the Assembly observes that growing restrictions apply for Afghans in Iran and Pakistan with increasing risks of forced removal. It considers that member States should not return Afghans to Pakistan and Iran as it may expose them to discrimination in accessing their rights and to deportation to Afghanistan.

12. The Assembly considers that Afghans in exile should be provided with dignified reception and integration as long as durable and safe return to Afghanistan is impossible:

12.1. the Assembly aligns with the European Union Agency for Asylum (EUAA) which considers that women and girls are at risk of persecution and that their fear of persecution is in general well-founded and substantiated. It welcomes efforts made by some member States which facilitate access to protection for Afghan women and girls, and encourages all member States to harmonise their practices accordingly;

12.2. the Assembly welcomes the adoption by the Committee of Ministers of Recommendation [CM/Rec\(2022\)17](#) on protecting the rights of migrant, refugee and asylum-seeking women and girls, and calls for a fast and effective implementation of this important instrument across Europe;

12.3. the Assembly recalls that the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) requires that signatory States take the necessary measures to prevent, investigate, punish and provide reparation for acts of gender-based and domestic violence. Such measures should be implemented without discrimination on any ground, including on the basis of migrant or refugee status;

12.4. the Assembly urges member States to commit to the resettlement and humanitarian pledges they have announced for Afghans and to increase their quotas. Concrete relocation and family reunification mechanisms must be enacted rapidly and should involve co-ordination with the relevant European Union authorities and the UNHCR. The Assembly welcomes the establishment in 2021 by the EUAA of the Expert Platform on safe pathways for Afghans in the framework of its Resettlement and Humanitarian Admission Network;

12.5. ensuring that Afghans are provided with a form of registration should be considered a priority by all member States. Particular attention should be given to unaccompanied minors and children transiting to adulthood. The Assembly recalls Recommendation [CM/Rec\(2019\)11](#) and Explanatory Memorandum [CM\(2022\)81-add](#) on effective guardianship for unaccompanied and separated children in the context of migration. It draws attention to the role of local and regional authorities as well as civil society organisations in these efforts and recalls [Resolution 487\(2022\)](#) and [Recommendation 481\(2022\)](#) of the Congress of Local and Regional authorities of the Council of Europe "Reception of women and children refugees in Europe's cities and regions", and Recommendation [CONF-](#)



[AG\(2023\)REC2](#) for a Global Approach of the Rights of Refugees and Migrants and the Role of Civil Society, adopted by the Conference of international non-governmental organisations of the Council of Europe;

12.6. in instances where Afghans do not hold a form of international protection and associated residence permit, other forms of legal registration providing (at least temporary) leave to remain should be made accessible (such as work or student visa). This would help ensure that return decisions do not result from a lack of any alternative to a an ultimately non-durable and potentially dangerous return.

13. The Assembly is very concerned about the obstacles faced by asylum-seekers, including Afghans, to access fair, effective, and individualised procedures in Europe, as well as obstacles to family reunification when applicable:

13.1. in line with rulings from the European Court of Human Rights, as well as Assembly [Resolution 2462 \(2022\)](#) “Pushbacks on land and sea: illegal measures of migration management”, pushbacks preventing individuals from seeking asylum on European territory, whether perpetrated by State or non-State actors, must immediately cease. Allegations of pushbacks must be fully investigated and those responsible be held to account. Effective complaints mechanisms for victims should be in place to allow such investigations;

13.2. all efforts should be made by State authorities to facilitate access to independent monitoring bodies in areas where people on the move are known to arrive, including border areas, as recommended by the Committee for the Prevention against Torture in its 32nd General Report of March 2023;

13.3. safe third country clauses cannot be used as a justification for providing lesser procedural safeguards to asylum-seekers. The burden of proof should not be heavier when assessing the admissibility of asylum requests against such clause for it often results in blocking access to protection for people in need.

14. The Assembly reasserts its commitment expressed in [Resolution 2379 \(2021\)](#) “Role of parliaments in implementing the United Nations global compacts for migrants and refugees” to operationalise the principles of burden and responsibility-sharing:

14.1. in line with [Resolution 2502 \(2023\)](#) “Integration of migrants and refugees: benefits for all parties involved”, the Assembly calls on member States to engage in the European Qualifications Passport for Refugees (EQPR) programme which comprises a tailor-made module on Afghan refugees and asylum-seekers, targeting credential evaluators. All member States are encouraged to recognise the EQPR as a valid assessment of the holders’ qualifications to enrol in higher education across Europe, even if to be used in a country that is not part of the EQPR;

14.2. the Assembly echoes the invitation made by the Committee of Ministers in its reply to the Assembly’s [Recommendation 2248 \(2023\)](#) “European solidarity in the context of asylum and international protection” to all member States to consider acceding to the Council of Europe Development Bank (CEB). It calls on member States to maintain their support to the Migrants and Refugee Fund especially through grants;

14.3. the Assembly emphasises that lack of a harmonised approach across States may increase the risk of unaccompanied children going missing. It encourages member States to co-ordinate on resettlement and relocation procedures, in line with the European Union law and Visa Code when pertinent. Unaccompanied Afghan children should be registered as international protection holders to ease family reunification;

14.4. the Assembly invites member States to maintain and increase their support to UNHCR especially through unearmarked funding so that UNHCR programmes in support of Afghans displaced in Afghanistan and in neighbouring countries can be sustained;

14.5. the Assembly is hopeful that member States, but also local authorities, will continue allocating sufficient funding to support their reception efforts. It stresses the importance of refraining from nationality-specific earmarking which may exclude some people from reception and support programmes which they might otherwise be eligible for, based on vulnerability and other individual criteria.

15. In Afghanistan, the Assembly:

15.1. calls on member States whose consular services have been suspended to explore the possibility of co-ordinating some part of the visa request processes with member States whose consular services are still functioning in Kabul, provided that they share similar eligibility criteria for humanitarian or family reunification visas;

15.2. calls on member States to explore the possibility to resume their consular services in Kabul with a view to facilitating access to protection for Afghans most at risk especially women and children, in the case where individuals are unable to or prevented from exiting Afghan territory;

15.3. agrees that the external representations of member States may inform country of origin information reports and be instrumental in enhancing support, including financially, to Afghan civil society especially in support of women and girls. The possibility for direct scholarship for private education in medical studies, one of the only areas of education still accessible to women to date, may be explored. Such efforts should be co-ordinated with United Nations programmes deployed in Afghanistan, the European External Action Service and the European Civil Protection and Humanitarian Aid Operations field office in Kabul;

15.4. in line with UN Security Council [Resolution S/Res/2626\(2022\)](#), encourages member States, in co-ordination with the European External Action Service, to increase aid and co-operation funding. It highlights the importance of a gradual shift from humanitarian assistance to a development-oriented approach in Afghanistan.

16. In Pakistan and in Iran, the Assembly:

16.1. encourages member States to streamline visa processes and to alleviate some of the eligibility and administrative requirements for visa requests. Member States should harmonise procedures and practices whenever imposing similar admissibility thresholds. They should co-ordinate their approach with the European Union to adopt a common approach on family reunification and relocation of Afghans whenever such relocation into an European Union member State involves elements falling under the European Union Visa Code requirements;

16.2. aligns itself with Recommendation [CM/Rec\(2022\)17](#) and calls on member States “to fund specific assistance and humanitarian resettlement programmes for women and girls who are victims, or at risk, of violence against women or trafficking in human beings”;

16.3. urges member States to allocate greater human and financial resources in consulates but also in the capitals of member States to effectively increase access to resettlement and alternative pathways for Afghans and ensure that cases are processed in a timely fashion;

16.4. suggests that the EQPR programme, in co-ordination with the UNESCO Qualifications Passport for Refugees and Vulnerable Migrants programme, be used as a canvas for tailor-made education assessment certificates to be issued by consulates in cases of partial or missing documentation as a means of proving and validating the educational background of Afghans who submit applications from Kabul, or, alternatively, from Islamabad or Tehran;

16.5. draws attention of member States to the assistance and reception fatigue in countries hosting Afghan refugees especially in Iran and Pakistan and expresses its concern at the risk that this may result in increased vulnerability and possibly human rights violations in first countries of asylum. Echoing principles stated in its [Resolution 2380 \(2021\) “Humanitarian action for refugees and migrants in countries in North Africa and the Middle East”](#), the Assembly reiterates the need to provide national humanitarian aid to support access to education and to health care for Afghan children and teenagers, boys and girls in co-ordination with the United Nations agencies and their implementing partners.

17. In line with [Resolution 2487 \(2023\)](#) “European solidarity in the context of asylum and international protection” and with [Resolution 2379 \(2023\)](#), the Assembly is committed to reinforcing political leadership to support the Afghan people through parliamentary co-operation especially with the European Parliament and with the Inter-Parliamentary Union. Exchanges between the Assembly and former members of the Afghan Parliament now in exile may be explored.

18. The Assembly reiterates its position expressed in [Resolution 2403 \(2021\)](#), namely that it considers that isolating the *de facto* authorities has led to the further suffering of the Afghan people. It stressed that:

18.1. engaging in targeted political dialogue with the *de facto* authorities does not imply a recognition on the part of member States of the Taliban as a legitimate authority in Afghanistan;

18.2. highlights that any engagement with the *de facto* authorities should aim to secure the unconditional respect and protection of the human rights of women and girls. Such engagement should also work towards respect of the rights of all ethnic, religious and minority groups in Afghanistan. In this regard, the Assembly recalls that Afghanistan remains a party to several international human rights treaties by which it is obliged to abide;

18.3. engaging a dialogue with all political stakeholders in Afghanistan, including the *de facto* authorities, should be inclusive of members of all communities and minority groups within Afghanistan. In addition, the voices of Afghans in exile willing to contribute to such dialogue should be duly heard, including former members of the Afghan Parliament, judges, and lawyers, coming from all communities and minority groups of Afghanistan.

19. The Assembly is hopeful that this resolution may lay the ground for a roadmap on Afghanistan and will contribute to the reflection of member States especially ahead of the Global Refugee Forum in December 2023 and the Annual Tripartite Consultations on Resettlement in 2024.

20. The Assembly encourages the Council of Europe to explore avenues for contribution to the EUAA-led Expert Platform on Afghanistan which brings together major partners of the Organisation worth co-ordinating with such as EU+ countries, Canada, the European Union, UNHCR, and the International Organization for Migration.