

INTRODUCTORY NOTE TO DOCUMENTS ON THE CONSEQUENCES OF THE AGGRESSION  
OF THE RUSSIAN FEDERATION AGAINST UKRAINE, NAMELY THE ENLARGED  
PARTIAL AGREEMENT ON THE REGISTER OF DAMAGE CAUSED  
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[Various, 2023]

## Introduction

Following a debate at the Parliamentary Assembly of the Council of Europe (PACE) on January 26, 2023 (7th sitting), under the urgent procedure, a text was adopted by 100 votes in favour, none against, and one abstention: a Resolution on the “Legal and human rights aspects of the Russian Federation’s aggression against Ukraine.”<sup>1</sup>

In doing so, PACE approved the report,<sup>2</sup> dated January 24, 2023, of its Committee on Legal Affairs and Human Rights (CLAHR), which contained a draft resolution. The rapporteur was Mr Damien Cottier.<sup>3</sup> The draft resolution was unanimously adopted by the committee on January 24, 2023.

On May 12, 2023, the Committee of Ministers (CoM) adopted Resolution CM/Res (2023)3, establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (RODU).<sup>4</sup>

On September 27, 2023, the CoM adopted Decision CM/Del/Dec (2023)1476/2.3a on the Consequences of the aggression of the Russian Federation against Ukraine, Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine—Amendment of the Statute.

The CoM further adopted Resolution CM/Res (2023)5 amending Resolution CM/Res (2023)3, establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine.<sup>5</sup>

## Background

Russian membership of the Council of Europe (CoE) came to an end on March 16, 2022. As a consequence of the Russian invasion of Ukraine, the CoM, in an unprecedented move, excluded the Russian Federation from the organization. Due to its exclusion, Russia also ceased to be bound by the European Convention on Human Rights (ECHR), with the European Court of Human Rights (ECtHR) remaining competent to deal with applications directed against Russia in relation to acts or omissions capable of constituting a violation of the Convention that took place before September 16, 2022.

As a result of the termination of its membership in the Council, on March 23, 2022, the Committee of Ministers and the Plenary of the Strasbourg Court decided, separately but almost simultaneously, that Russia would cease to be a Contracting Party to the ECHR on September 16, 2022.<sup>6</sup> This meant that Russia would be responsible for violations of the ECHR that occurred during this six-month period. Thus the ECtHR has jurisdiction over all applications alleging violations of the ECHR that occurred before and during this period that are filed by September 16, 2022, and possibly later, if the Court accepts cases alleging violations before that date but where domestic remedies are exhausted thereafter.

Andrew Drzemczewski and Rick Lawson have meticulously covered developments until the end of 2022.<sup>7</sup> They record, in chronological order, the decision-making process that led to the exclusion of Russia from the CoE, with particular attention paid to the repercussions this has had for the ECHR control mechanism.

## PACE Resolution

On April 26, 2022, the CLAHR constituted an ad hoc sub-committee on carrying out a fact-finding visit to Ukraine for the purpose of gathering information on possible war crimes and crimes against humanity committed during the war of aggression launched by the Russian Federation against Ukraine.<sup>8</sup> The ad hoc sub-committee carried out its

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mission between June 27 and June 29, 2022. The sub-committee's delegation was composed of ten members of the committee, including Damon Cottier as chairperson and rapporteur of the sub-committee's report.<sup>9</sup>

Following its visit and discussions with Ukrainian authorities on June 28, 2022, the sub-committee decided to prioritize work along the following three axes: (1) accountability for the crime of aggression; (2) the prosecution of war crimes, crimes against humanity, and possible genocide; and (3) the establishment of a compensation mechanism to fund post-war reconstruction in Ukraine. This introductory note focuses on the compensation mechanism.

Mr. Cottier therefore decided to treat these three axes as a priority in the sub-committee's report. They are interrelated components of a comprehensive system of accountability for violations of international law arising out of the Russian aggression against Ukraine. Other topics covered in the original motion may be examined in parallel or future reports.

The 28-page Report concluded, *inter alia*:

The Russian Federation's unjustified armed attack and large-scale invasion of Ukraine launched on 24 February 2022 constitutes an aggression and a clear breach of the United Nations Charter. This aggression constituted a serious violation by the Russian Federation of the Statute of the Council of Europe, which justified the unprecedented decision by the Committee of Ministers to exclude the Russian Federation from the Council of Europe on 16 March 2022, in line with the position expressed by the Assembly.<sup>10</sup>

The Resolution adopted by the CoM on 12 May 2023<sup>11</sup> contained the following:

Noting that the Parliamentary Assembly of the Council of Europe, in its Resolution 2482 (2023) on "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", reiterated its call on member States to set up an international compensation mechanism and, as a first step, an international register of damage.

This action by the Council of Europe followed approval on November 14, 2022, by the United Nations General Assembly (UNGA) sitting in its 11th Emergency Session, of Res. L.6/2022,<sup>12</sup> entitled "Furtherance of Remedy and Reparation for Aggression against Ukraine."<sup>13</sup> The resolution was co-sponsored by fifty-six member states and gathered a significant positive vote, with ninety-four votes in favor and thirteen against.<sup>14</sup>

### Register of Damages

On March 29, 2023, the Committee of Ministers of the Council of Europe (CoM) invited the Secretary General of the CoE to submit the draft Resolution establishing the Register of Damage and the related draft Statute of the Register.

On May 12, 2023, at the 1466th meeting of the Ministers' Deputies, the CoM adopted Resolution CM/Res (2023)3,<sup>15</sup> establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation Against Ukraine (RODU). The mandate of RODU is to

serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused to all natural and legal persons concerned, as well as the State of Ukraine (including its regional and local authorities, State-owned or controlled entities), caused on or after 24 February 2022 in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters, by Russian Federation's internationally wrongful acts in or against Ukraine.

Chiara Giorgetti and Patrick Pearsall of Columbia Law School have commented that:

It is quite remarkable that less than six months after the creation of a Register was endorsed by UNGA and less than a year since the idea of a claims commission for Ukraine began to be discussed, RODU is now a reality, now being established in The Hague . . . In sum, the establishment of RODU is an extraordinary achievement and could be the first step of a new kind of claims commission that responds to the unique situation that prompted its creation."<sup>16</sup>

## Conclusion

It may be seen that the Council of Europe responded rapidly and efficiently to the call by the UNGA for reparation for the consequences of the Russian aggression, and the CLAHR Rapporteur, Mr. Cottier, wrote a detailed report in a short space of time, with a comprehensive draft resolution. His draft resolution was adopted without delay by the PACE, the parliamentary body of the CoE, and referred to the CoE's executive, the CoM. In just over six months, the work of establishing RODU, a mechanism never before attempted by the CoE, could begin its work.

In the words of Alexandra Mężykowska of the Polish Academy of Sciences, in her ESIL Reflection:

The establishment of this new institution (RODU) is a major challenge for the international community and an important element in shaping the practice of States in the field of reparations to individuals, legal entities, and States. The discussed mechanism will be innovative in several respects, e.g., in its legal basis and financing. Its creation will be also a challenge for the CoE because the organisation, unlike the UN, has not previously dealt with such mechanisms.<sup>17</sup>

## ENDNOTES

- 1 Resolution 2482 (2023) (Jan. 26, 2023), <https://pace.coe.int/en/files/31620/pdf>.
- 2 Doc. 15689 (Jan. 24, 2023, <https://pace.coe.int/files/31576/pdf>.
- 3 Switzerland, Alliance of Liberals and Democrats for Europe.
- 4 Resolution CM/Res (2023)3 (May 12, 2023), <https://rm.coe.int/0900001680ab2595>.
- 5 Resolution CM/Res (2023)5 (Sept. 27, 2023), <https://rm.coe.int/0900001680aca7eb>.
- 6 Press Release, Committee of Ministers, Russia ceases to be a Party to the European Convention on Human Rights on 16 Sept. 2022 (Mar. 23, 2022), <https://www.coe.int/en/web/portal/-/russia-ceases-to-be-a-party-to-the-european-convention-of-human-rights-on-16-september-2022#:~:text=Newsroom&text=Following%20its%20expulsion%20from%20the,by%20the%20Committee%20of%20Ministers>.
- 7 Andrew Drzemczewski and Rick Lawson, *Exclusion of the Russian Federation from the Council of Europe and the ECHR: An Overview*, BALTIC Y.B. INT'L L. vol. 21 (forthcoming), currently accessible at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4458281](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4458281). PACE has also posted "Russian Federation's war of aggression against Ukraine: special page," which has many references. See <https://pace.coe.int/en/pages/ukraine>.
- 8 Doc 15689, *supra* note 2, Explanatory memorandum, by Mr Cottier, p.8, ¶¶ 2–3.
- 9 The Sub-Committee report was unanimously adopted by the Committee on January 24, 2023 (*see* Doc. 15689, *supra* note 2). The other members were Sunna Ævarsdóttir (Iceland, SOC), Boriss Cilevičs (Latvia, SOC), Erkin Gadirli (Azerbaijan, EC/DA), George Katrougalos (Greece, UEL), Eerik-Niiles Kross (Estonia, ALDE), Arkadiusz Mularczyk (Poland, EC/DA), Davo Ivo Stier (Croatia, EPP/CD), Ingvild Wettrhus Thorsvik (Norway, ALDE), and Emmanuelis Zingeris (Lithuania, EPP/CD).
- 10 *Id.* ¶ 73.
- 11 Resolution CM/Res (2023)3, *supra* note 4.
- 12 G.A. Res. A/ES-11/L/6 (Nov. 7, 2022), <https://www.justsecurity.org/wp-content/uploads/2022/11/N2267912.pdf>.
- 13 G.A. Res. A/RES/ES-11/5 (Nov. 14, 2022), [https://digitallibrary.un.org/record/3994481/files/A\\_RES\\_ES-11\\_5-EN.pdf](https://digitallibrary.un.org/record/3994481/files/A_RES_ES-11_5-EN.pdf).
- 14 Chiara Giorgetti, Markiyani Kliuchkovsky, Patrick Pearsall and Jeremy K. Sharpe, *Historic UNGA Resolution Calls for Ukraine Reparations*, JUSTSECURITY (Nov. 16, 2022), <https://www.justsecurity.org/84146/historic-unga-resolution-calls-for-ukraine-reparations/>.
- 15 Resolution CM/Res (2023)3, *supra* note 4.
- 16 Chiara Giorgetti and Patrick Pearsall, *Compensation Mechanism for Ukraine: The Council of Europe Establishes A Register of Damages Caused by Russia's Aggression Against Ukraine*, JUSTSECURITY (July 27, 2023), [https://www.justsecurity.org/87395/significant-step-in-creation-of-international-compensation-mechanism-for-ukraine/#:~:text=Resolution%20CM%2FRes\(2023\)3%20was%20adopted%20by%20the,Against%20Ukraine%20\(the%20Agreement\)](https://www.justsecurity.org/87395/significant-step-in-creation-of-international-compensation-mechanism-for-ukraine/#:~:text=Resolution%20CM%2FRes(2023)3%20was%20adopted%20by%20the,Against%20Ukraine%20(the%20Agreement)). See also *Council of Europe Summit establishes register of war damage for Ukraine*, CMS LAW-NOW (May 24, 2023), <https://cms-lawnow.com/en/ealerts/2023/05/council-of-europe-summit-establishes-register-of-war-damage-for-ukraine>.
- 17 Aleksandra Mężykowska, *Establishment of the Registry of Damage: The first element in ensuring Russia's financial accountability for the aggression against Ukraine*, 12 ESIL REFLECTIONS 3 (2023), <https://esil-sedi.eu/wp-content/uploads/2023/05/Mezykowska.pdf>.

RES. 2482 (2023) LEGAL AND HUMAN RIGHTS ASPECTS OF THE RUSSIAN FEDERATION'S  
AGGRESSION AGAINST UKRAINE (EUR. PACE)\*  
[January 26, 2023]



## Resolution 2482 (2023)<sup>1</sup>

### Legal and human rights aspects of the Russian Federation's aggression against Ukraine

Parliamentary  
Assembly

1. The Parliamentary Assembly reiterates that the Russian Federation's armed attack and large-scale invasion of Ukraine launched on 24 February 2022 constitute an "aggression" under the terms of Resolution 3314 (XXIX) of the United Nations General Assembly adopted in 1974 and are clearly in breach of the Charter of the United Nations. The attempted annexation of the Ukrainian regions of Donetsk, Kherson, Luhansk and Zaporizhzhia, following the illegal "referendums" organised by the Russian Federation in these regions in September 2022, is a further escalation of the aggression against Ukraine. It clearly violates the principle of international law according to which no territorial acquisition resulting from the use of force shall be recognised as legal. The Russian Federation will be considered as continuing its aggression until the sovereignty, territorial integrity, unity and political independence of Ukraine within its internationally recognised borders are fully re-established. The Assembly recalls that the ongoing aggression is a continuation of the aggression started on 20 February 2014, which included the invasion, occupation and illegal annexation of Crimea by the Russian Federation.

2. The Assembly notes that the aggression constituted a serious violation by the Russian Federation of the Statute of the Council of Europe (ETS No. 1), which justified the unprecedented decision by the Committee of Ministers to exclude the Russian Federation from the Organisation, in line with the unanimous position expressed by the Assembly in its Opinion 300 (2022).

\*This text was reproduced and reformatted from the text available at the Council of Europe website (visited January 9, 2024), <https://pace.coe.int/en/files/31620/pdf>.

3. The Assembly also notes that Belarus has participated in the Russian Federation's aggression against Ukraine, as it has allowed its territory to be used by the Russian Federation to perpetrate acts of aggression against Ukraine. Its role and complicity should be condemned by the international community and its leaders should be held to account.

4. The Assembly considers that the unprovoked acts of aggression committed by the Russian Federation and Belarus, given their character, scale and gravity, constitute manifest violations of the Charter of the United Nations, in particular of the prohibition of the use of force contained in Article 2(4). They lack any plausible legal justification under *jus ad bellum*, such as self-defence. These acts therefore meet the definition of the crime of aggression as set out in Article 8 bis of the Statute of the International Criminal Court (ICC) and under customary international law. The Russian and Belarusian political and military leaders who planned, prepared, initiated or executed these acts, and who were in a position to control or direct the political or military action of the State, should be identified and prosecuted. Without their decision to wage this war of aggression against Ukraine, the atrocities that flow from it (war crimes, crimes against humanity and possible genocide), as well as all the destruction, death and damage resulting from the war, including from lawful acts of war, would not have occurred. As the United Nations Human Rights Committee has stated, States engaged in acts of aggression as defined in international law, resulting in deprivation of life, violate *ipso facto* the right to life guaranteed by Article 6 of the International Covenant on Civil and Political Rights.

5. The Assembly notes that the ICC does not have at present jurisdiction over the crime of aggression committed against Ukraine, given that none of the Russian Federation, Belarus or Ukraine are parties to the ICC Statute and that the United Nations Security Council has not referred the situation to the ICC Prosecutor.

The likely exercise and abuse of the right to veto by the Russian Federation at the United Nations Security Council render such a referral highly implausible in the present circumstances. The Assembly further notes that there is no other international criminal tribunal competent to prosecute and punish the crime of aggression committed against Ukraine. Domestic prosecutions, in Ukraine and in other countries, on the basis of the principles of territoriality or universal jurisdiction, face many legal and practical challenges, including in terms of perceived impartiality, legitimacy and immunities.

6. The Assembly therefore reiterates its unanimous call on member States and observer States of the Council of Europe to set up a special international criminal tribunal for the crime of aggression against Ukraine, which should be endorsed and supported by as many States and international organisations as possible, and in particular by the United Nations General Assembly. The proposal to create a special tribunal for the crime of aggression against Ukraine has so far received the support of several national parliaments and governments, the European Parliament, the European Commission, the Parliamentary Assembly of the Organization for Security and Co-operation in Europe and the Parliamentary Assembly of the North Atlantic Treaty Organization. The Committee of Ministers has welcomed the ongoing efforts, in co-operation with Ukraine, to secure accountability for the crime of aggression. The Assembly considers that the Council of Europe Heads of State and Government, at their 4th Summit in Reykjavik in May 2023, should give their political support to the creation of such a tribunal and provide the Council of Europe's expert and technical support to the process of its establishment, in close co-ordination with other interested international organisations and States. The Assembly considers that the Council of Europe should have an active leading role in the establishment of the special tribunal, participate in relevant consultations and negotiations and provide concrete expert and technical support to the process of establishing the special tribunal.

7. The Assembly strongly supports the creation of a special tribunal that would have the following features:

- 7.1. its jurisdiction would be limited to the crime of aggression committed against Ukraine and would extend *ratione temporis* to the aggression started by the Russian Federation in February 2014. Its jurisdiction would include the role and complicity of the leaders of Belarus in the war of aggression against Ukraine;
- 7.2. its statute would contain a definition of the crime of aggression in line with Article 8 bis of the ICC Statute and customary international law;

- 7.3. its statute would clearly state that personal immunities would not apply to incumbent State officials, in line with the practice of other international criminal tribunals, and that functional immunities would in any event not be applicable to the crime of aggression. The official capacity as a head of State or government, a member of government or parliament, an elected representative or government official should in no case exempt the accused person from criminal responsibility for the crime of aggression or justify a mitigated punishment. This principle should apply to nationals of States that are not party to the constitutive treaty or agreement, in particular those of the aggressor State and its accomplice;
  - 7.4. its statute would contain a list of fair trial rights of the accused, as well as a reference to the principles of legality and *non bis in idem*, in line with international human rights law and the European Convention on Human Rights (ETS No. 5, “the Convention”), as interpreted by the European Court of Human Rights;
  - 7.5. its role would be complementary to the ICC’s jurisdiction and in no way limit or affect the latter’s exercise of jurisdiction over war crimes, crimes against humanity and possible genocide committed in the context of the ongoing aggression and its jurisdiction in general. Both the ICC and the special tribunal should agree on practical and legal issues such as sharing of evidence, custody of suspects, developing common witness protection schemes and sequencing of trials of individuals prosecuted by both courts;
  - 7.6. its seat should be established in The Hague, with a view to ensuring complementarity and co-operation with the ICC and other international courts and institutions;
  - 7.7. States and international organisations supporting the special tribunal should provide to it sufficient human and financial resources, ensuring its full independence and effective operational functioning while taking into account in its structure the fact that it will certainly not immediately or permanently be able to operate at full capacity.
8. Pending the establishment of a special tribunal on the crime of aggression against Ukraine, the Assembly calls on member States and the Council of Europe to support and provide concrete expert and technical assistance to the process of setting up an interim international prosecutor’s office to investigate the crime of aggression, in close co-operation with the Prosecutor General’s Office of Ukraine. Member States should co-operate closely with this new office and make sure in their internal legislation that close judicial co-operation with it is ensured. Such an office could be based outside Ukraine, ideally in The Hague.
9. In parallel to the creation of a special tribunal, the Assembly calls on member States and observer States that have not yet ratified the ICC Statute or the Kampala amendments to do so at the earliest possible date. They should also take the necessary steps to amend the ICC Statute’s jurisdictional regime, either by allowing referrals to the ICC by the United Nations General Assembly when the United Nations Security Council is blocked, or by removing the existing limits on the jurisdiction over the crime of aggression in order to make this crime consistent with the other crimes subject to its jurisdiction. These changes would reinforce the overall consistency, legitimacy and universality of international criminal justice, in particular with regard to the crime of aggression. The proposal to create a special tribunal to respond to the ongoing criminal aggression against Ukraine and the long-term reform of the ICC Statute enabling the ICC to prosecute and punish similar (future) aggressions are not mutually exclusive and should be pursued in parallel.
10. The Assembly is outraged by the numerous reports of atrocities, gross human rights violations and violations of international humanitarian law committed by Russian forces or affiliated armed groups, and specifically the horrendous role of the Wagner Group, in the course of hostilities or in areas temporarily occupied by them during the ongoing war of aggression. These include indiscriminate attacks against civilians and civilian objects, including hospitals, schools, nuclear power plants, the energy and water infrastructure and cultural heritage sites, in breach of the principles of distinction, proportionality and precaution. They also include summary executions of civilians; targeted killings; torture and ill-treatment of civilians and prisoners of war; enforced disappearances; abductions; rape and

other forms of sexual violence; unlawful confinement of civilians; forcible transfer and deportation of Ukrainian citizens, including children, to the Russian Federation or Russian-occupied areas; use of explosive weapons in populated areas; looting; forced “passportisation” and conscription of Ukrainian citizens; and trials and death sentences against prisoners of war. There are strong indications that many of these violations amount to grave breaches of the Geneva Conventions and war crimes and that some may even qualify as crimes against humanity, as part of a widespread or systematic attack against the civilian population in Ukraine.

11. The Assembly utterly condemns these crimes and reiterates its call on the international community to send a clear message that perpetrators of war crimes and crimes against humanity will be held to account and that impunity for such crimes is unacceptable. This applies equally to low-ranking perpetrators and those who bear command responsibility for the crimes. Both the Russian Federation and Ukraine have a primary responsibility under international law to investigate and prosecute such crimes and to bring the perpetrators to justice.

12. The Assembly notes that there is mounting evidence that the official Russian rhetoric used to justify the full-scale invasion and aggression against Ukraine, the so-called “de-Ukrainianisation” process, carries characteristics of public incitement to genocide or reveals a genocidal intent to destroy the Ukrainian national group as such or at least part of it. It recalls that the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (“the Genocide Convention”), to which both Ukraine and the Russian Federation are parties, prohibits direct and public incitement to commit genocide and the attempt to commit genocide. It also notes with the utmost concern that some of the acts committed by Russian forces against Ukrainian civilians could fall under Article II of the Genocide Convention, such as killings and forcible transfer of children of one group to another group for Russification purposes through adoption by Russian families and/or transfer to Russian-run orphanages or residential facilities like summer camps.

13. The Assembly recalls that all States Parties to the Genocide Convention have a duty to punish genocide. As interpreted by the International Court of Justice, they also have an obligation to prevent genocide and a corresponding duty to act, which arises at the instant when the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed.

14. The Assembly notes that international and domestic accountability mechanisms already exist in order to investigate, prosecute and, where appropriate, punish war crimes, crimes against humanity and possible genocide committed during the ongoing war. These include the ICC, which has jurisdiction over such crimes allegedly committed on Ukrainian territory; the criminal justice system of Ukraine; and the criminal justice systems of third States that have jurisdiction on the basis of the principle of universal jurisdiction or the principles of active or passive personality. The Assembly welcomes the referral of the current situation in Ukraine to the ICC Prosecutor by 43 States Parties to the ICC Statute. It strongly supports the investigations opened by the ICC Prosecutor, the Prosecutor General’s Office of Ukraine and third countries and welcomes the setting-up of a joint investigation team to co-ordinate relevant efforts.

15. The Assembly calls on member States and observer States of the Council of Europe to:

- 15.1. fully support the investigation launched by the ICC Prosecutor into the situation in Ukraine, by sharing any evidence in their possession and by providing in a sustainable manner adequate human and financial resources to the ICC, enabling it to face its increased and unprecedented workload;
- 15.2. assist the Ukrainian authorities and, in particular, the Prosecutor General’s Office in their ongoing efforts to investigate alleged international crimes committed in Ukraine, by strengthening their capacities, by providing resources and expertise, including forensic experts, and, where appropriate, by collecting, preserving and sharing evidence from potential victims and witnesses who have fled Ukraine, in accordance with human rights standards in order to ensure its admissibility in criminal proceedings;
- 15.3. provide expert support to the Ukrainian authorities in their efforts to investigate conflict-related sexual violence, which is often underreported by victims;

- 15.4. make use of the principle of universal jurisdiction or other principles (active or passive personality) to investigate and prosecute alleged international crimes committed in Ukraine;
- 15.5. join or co-operate with the joint investigation team set up by Ukraine and certain European Union member States under the auspices of the European Union Agency for Criminal Justice Cooperation (Eurojust) and with the participation of the ICC Prosecutor, with the aim of exchanging evidence and information in connection with the ongoing investigations into alleged crimes committed in Ukraine;
- 15.6. make use of Council of Europe and other international instruments on mutual legal assistance to the widest extent possible, for the purposes of collecting, transferring and using evidence in connection with alleged crimes committed in Ukraine, and if necessary envisage extending them;
- 15.7. support the work of Ukrainian and international non-governmental organisations, as well as human rights defenders and journalists on the ground, in the collection of evidence and documentation of alleged international crimes or the provision of different types of assistance to victims and witnesses, including with regard to the forcible transfer of children to the Russian Federation and Russian-occupied territories;
- 15.8. ensure increased co-ordination and coherence between all accountability mechanisms and actors involved, with a view to preventing duplication and enhancing efficiency;
- 15.9. ratify the Rome Statute of the ICC and its amendments, including the Kampala amendments, if they have not yet done so.

16. The Assembly calls on the Ukrainian authorities to strictly comply with their obligations under international humanitarian law and to conduct thorough investigations of all alleged war crimes and violations of international humanitarian law allegedly committed by Russian or by Ukrainian forces and combatants, regardless of the affiliation of the perpetrator or the victim. All trials before Ukrainian courts should be conducted respecting the right of the suspects to a fair trial under international human rights law and international humanitarian law. To this end, the Assembly encourages the Ukrainian authorities to co-operate with international trial observers and to consider inviting international legal professionals to participate in upcoming trials. Resulting convictions should be compatible with the principle of legality enshrined in Article 7 of the European Convention on Human Rights, which cannot be subject to derogation in time of war.

17. The Assembly also calls on the Ukrainian authorities to put a particular emphasis on activating all the relevant procedures to gather information on and ensure the safe return of forcibly transferred Ukrainian children back from the Russian Federation and Russian-occupied territories.

18. The Assembly welcomes the adoption on 14 November 2022 by the United Nations General Assembly of the resolution entitled “Furtherance of remedy and reparation for aggression against Ukraine”, which recognises that the Russian Federation must bear the legal consequences of all its internationally wrongful acts in or against Ukraine, including by making reparation for the injuries and losses caused by such acts. This resolution further recognises the need for the establishment of an international mechanism for the reparation of related damage, loss or injury and recommends the creation by member States, in co-operation with Ukraine, of an international register of damage.

19. In this context, the Assembly reiterates its call to all member States of the Council of Europe to set up an international compensation mechanism, including an international register of damage, in co-operation with the Ukrainian authorities. The Assembly stresses the Council of Europe’s comparative advantage due to the experience gained by the European Court of Human Rights and the Committee of Ministers in assessing and enforcing just satisfaction claims for serious human rights violations and considers that the Organisation should play a leading role in setting up and managing the future mechanism. Such a mechanism would have the following features:

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



- 19.2. it would include as a first step a register of damage, which would create a record of evidence and claims for damage, loss or injury caused to all natural and legal persons in Ukraine, as well as the State of Ukraine, as a result of violations of international law arising from the Russian Federation's aggression against Ukraine;
  - 19.3. it would include at a later stage an international compensation commission, mandated to review and adjudicate the claims submitted and documented by the register, as well as a compensation fund, from which compensation awards would be paid to successful claimants. The founding treaty or agreement would regulate matters such as the funding of the compensation fund, the enforcement of compensation awards and how decisions by other international bodies and courts on reparation and compensation in connection with the Russian aggression, such as judgments of the European Court of Human Rights, could be enforced through such a mechanism.
20. The Assembly, while reiterating its previous recommendations addressed to the Russian Federation since the outbreak of its aggression against Ukraine, calls on the Russian Federation to:
- 20.1. cease its aggression against Ukraine immediately and unconditionally;
  - 20.2. completely and unconditionally withdraw its occupying forces, including its own military as well as proxies, from the internationally recognised territory of Ukraine;
  - 20.3. comply strictly with its obligations under international law, including the Charter of the United Nations, international human rights law and international humanitarian law;
  - 20.4. immediately stop attacks against civilians and civilian objects, including mass indiscriminate attacks, ensure full respect for the principles of distinction, proportionality and precaution, and authorise the International Committee of the Red Cross to have full access for visits to prisoners of war;
  - 20.5. immediately cease the forced deportation and transfers of Ukrainian civilians, including children, to the Russian Federation and Russian-occupied territories, allow their safe return and, in the case of children, ensure that they are promptly reunited with their families;
  - 20.6. effectively investigate all allegations of war crimes, crimes against humanity and possible genocide committed by Russian forces and affiliated armed groups, and ensure as appropriate that all perpetrators and those bearing command responsibility are properly prosecuted and punished;
  - 20.7. co-operate with the investigations and proceedings before the ICC and the International Court of Justice (ICJ) and comply with their decisions, including the ICJ order of 16 March 2022 indicating that the Russian Federation should immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine;
  - 20.8. co-operate with the United Nations Independent International Commission of Inquiry on Ukraine and comply with its recommendations;
  - 20.9. co-operate with proceedings before the European Court of Human Rights, in relation to acts or omissions capable of constituting a violation of the Convention provided that they occurred up until 16 September 2022, in particular in the context of the interstate case *Ukraine v. Russia (X)* concerning alleged mass and gross human rights violations committed by the Russian Federation in Ukraine since 24 February 2022, and of any related individual applications against the Russian Federation, and comply with the interim measures indicated by the Court under Rule 39 of its Rules of Court in the context of these proceedings.
21. The Assembly furthermore invites:
- 21.1. the European Court of Human Rights to further prioritise the examination of interstate and individual applications against the Russian Federation stemming from the ongoing war of aggression;

- 21.2. the members of the United Nations Security Council to consider putting to a vote and not obstructing a Security Council resolution seeking referral of the situation in Ukraine to the ICC Prosecutor under Chapter VII of the Charter of the United Nations;
  - 21.3. the United Nations General Assembly to support and endorse the setting-up of a special international criminal tribunal for the crime of aggression against Ukraine and of an international compensation mechanism for the injury, damage and loss incurred by the State of Ukraine as well as by natural and legal persons in Ukraine, due to the Russian war of aggression;
  - 21.4. the European Union to closely co-ordinate its efforts with the Council of Europe to ensure a comprehensive system of accountability for the Russian Federation's aggression against Ukraine, including the crime of aggression, war crimes, crimes against humanity possible genocide and reparation of damages.
22. The Assembly calls on Belarus and the regime in place to refrain from any further involvement in the aggression, including allowing its territory to be used by the Russian Federation for perpetrating acts of aggression against Ukraine, and to comply with its obligations under international law.
23. The Assembly considers the inability of the United Nations and its Security Council to counter the Russian aggression because of an abuse of the right to veto to be an existential threat to international rule-based order and the democratic security of Council of Europe member States. In this respect, the Assembly supports all efforts and discussions on unblocking the situation at the United Nations and making the United Nations more efficient, including a call to request an advisory opinion from the International Court of Justice on potential limitations of the right to veto implicit in the Charter of the United Nations and general principles of law.
24. The Assembly should continue to follow developments relating to the Russian Federation's aggression against Ukraine and its legal and human rights aspects. Once hostilities have ended, the Assembly should consider holding one of its part-sessions in Kyiv, as an expression of solidarity with Ukraine.

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#### NOTE

1 *Assembly debate* on 26 January 2023 (7th sitting) (see Doc. 15689, report of the Committee on Legal Affairs and

Human Rights, rapporteur: Mr Damien Cottier). *Text adopted by the Assembly* on 26 January 2023 (7th sitting).

RESOLUTION CM/RES(2023)3 ESTABLISHING THE ENLARGED PARTIAL AGREEMENT ON  
THE REGISTER OF DAMAGE CAUSED BY THE AGGRESSION OF THE  
RUSSIAN FEDERATION AGAINST UKRAINE (EUR. COMM. OF MINISTERS)\*  
[May 12, 2023]



MINISTERS' DEPUTIES

Resolutions

CM/Res(2023)3

16 May 2023

**Resolution CM/Res(2023)3**

**establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine**

*(Adopted by the Committee of Ministers on 12 May 2023  
at the 1466th meeting of the Ministers' Deputies)*

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The representatives in the Committee of Ministers of Albania, Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Ukraine and United Kingdom, as well as the representatives of the European Union, Canada, Japan and the United States of America,

Having regard to the Statute of the Council of Europe (ETS No. 1), which in its preamble underlines the pursuit of peace based upon justice;

Recalling the obligations of all States under Article 2 of the Charter of the United Nations, including the obligation to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, and to settle their international disputes by peaceful means;

Reiterating their condemnation in the strongest terms of the aggression of the Russian Federation against Ukraine and expressing their full support for Ukraine and their solidarity with its people;

Calling on the Russian Federation to immediately cease the aggression, withdraw completely and unconditionally its forces from the internationally recognised territory of Ukraine, and release all civilians forcibly transferred or

\*This text was reproduced and reformatted from the text available at the Council of Europe website (visited January 9, 2024), <https://pace.coe.int/en/files/31620/pdf>.

unlawfully deported to the territory of the Russian Federation or to areas temporarily controlled or occupied by the Russian Federation, in particular children;

Reiterating also their unwavering commitment to the independence, sovereignty and territorial integrity of Ukraine within its internationally recognised borders;

Recalling that, on 16 March 2022, the Committee of Ministers decided to exclude the Russian Federation from the Council of Europe as a result of its aggression against Ukraine, such aggression constituting a serious violation by the Russian Federation of its obligations under Article 3 of the Statute of the Council of Europe and under international law;

Condemning all violations of international law, including international human rights law and international humanitarian law, in particular attacks against civilians and civilian objects, including civilian infrastructure, cultural and religious heritage and the environment of Ukraine, and convinced of the exigent necessity to ensure comprehensive accountability in the context of the Russian Federation's aggression against Ukraine;

Recalling in this respect the 2001 Articles on Responsibility of States for Internationally Wrongful Acts, the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, as well as the 2011 Guidelines of the Committee of Ministers on Eradicating impunity for serious human rights violations;

Recalling the decisions of the Committee of Ministers of 15 September 2022 and 24 February 2023 welcoming ongoing efforts, in co-operation with Ukraine, to secure full reparation for the damage, loss or injury caused by violations by the Russian Federation of international law in Ukraine;

Bearing in mind the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 "Furtherance of remedy and reparation for aggression against Ukraine" recognising, *inter alia*, that the Russian Federation must bear the legal consequences of all of its internationally wrongful acts in or against Ukraine, including making reparation for the injury, and for any damage, caused by such acts, and noting that this resolution also recognises the need for the establishment of an international mechanism for reparation, and recommends the creation of an international register of damage in co-operation with Ukraine;

Noting that the Parliamentary Assembly of the Council of Europe, in its Resolution 2482 (2023) on "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", reiterated its call on member States to set up an international compensation mechanism and, as a first step, an international register of damage;

Convinced that the establishment of a register of damage constitutes a significant first step to ensure timely compensation for the victims of the Russian Federation's internationally wrongful acts in or against Ukraine;

Having regard to Statutory Resolution Res(93)28 of the Committee of Ministers on partial and enlarged agreements;

Having regard to Resolution Res(96)36 of the Committee of Ministers establishing the criteria for partial and enlarged agreements of the Council of Europe, as amended by Resolution CM/Res(2010)2;

Having regard to the decision of 19 April 2023 whereby the Committee of Ministers authorised the establishment of a Register of Damage Caused by the Aggression of the Russian Federation against Ukraine in the form of an Enlarged Partial Agreement within the framework of the Council of Europe,

Resolve to establish the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (hereinafter "the Register"), governed by the Statute appended hereto that shall serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused to all natural and legal persons concerned, as well as the State of Ukraine (including its regional and local authorities, State-owned or controlled entities), caused on or after 24 February 2022 in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters, by Russian Federation's internationally wrongful acts in or against Ukraine;

Agree that the Register is established for an initial period of three years;

Agree to review the functioning of the Register, with a view to considering the continuation of its operation, by the end of the initial period of three years;

Invite all member and observer States of the Council of Europe, as well as other States and international organisations, to become members of the Enlarged Partial Agreement, in accordance with the Statute of the Register;

Call on Council of Europe member and observer States, the European Union, the United Nations and other States and international organisations to co-operate with the Register so as to facilitate its work;

Agree to disseminate information on the Register as widely as possible to potential claimants and the public at large, to States and to relevant international organisations and bodies;

Agree to continue working, in co-operation with Ukraine and relevant international organisations and bodies, towards the establishment by a separate international instrument of a future international compensation mechanism, which may include a claims commission and a compensation fund, of which the work of the Register, including its digital platform with all data about claims and evidence recorded therein is intended to constitute an integral part.

### *Appendix to Resolution CM/Res(2023)3*

## **Statute of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine**

### **ARTICLE 1 – MANDATE OF THE REGISTER OF DAMAGE**

1.1. The Register of Damage Caused by the Aggression of the Russian Federation against Ukraine (hereinafter “the Register”) shall serve as a record, in documentary form, of evidence and claims information on damage, loss or injury caused, on or after 24 February 2022, in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters, to all natural and legal persons concerned, as well as the State of Ukraine, including its regional and local authorities, state-owned or controlled entities, by the Russian Federation’s internationally wrongful acts in or against Ukraine.

1.2. The Register shall be established as a platform for intergovernmental co-operation, acting within the institutional framework of the Council of Europe.

### **ARTICLE 2 – FUNCTIONS OF THE REGISTER OF DAMAGE**

2.1. The Register shall receive and process information on claims of damage and evidence; categorise, classify and organise such claims, assess and determine the eligibility of claims for inclusion in the Register and record the eligible claims for the purposes of their future examination and adjudication. The Register shall not have any adjudication functions with respect to such claims, including determination of responsibility and allocation of any payments or compensation.

2.2. Eligibility criteria for recording of claims in the Register for the purposes of their future examination and adjudication shall be determined in the rules and regulations of the Register, bearing in mind that such claims shall be made in relation to damage, loss or injury that was caused:

- a. on or after 24 February 2022;
- b. in the territory of Ukraine within its internationally recognised borders, extending to its territorial waters;
- c. by the Russian Federation’s internationally wrongful acts in or against Ukraine.

2.3. Claims, evidence and related information shall be submitted to the Register by natural and legal persons concerned, as well as the State of Ukraine (including its regional and local authorities, and State-owned or controlled entities).

2.4. The Register shall co-operate with relevant national and international partners for the purposes of promotion and co-ordination of gathering of evidence of the damage, loss or injury caused by the Russian Federation’s internationally wrongful acts in or against Ukraine.

2.5. The work of the Register, including its digital platform with all data about claims and evidence recorded therein, is intended to constitute the first component of a future international compensation mechanism to be

established by a separate international instrument in co-operation with Ukraine (hereinafter “a Compensation Mechanism”). The exact form of a future Compensation Mechanism is to be determined, but may include a claims commission and compensation fund mandated to examine and adjudicate claims and/or pay compensation for damage, loss or injury caused by the Russian Federation’s internationally wrongful acts in or against Ukraine. The Register, through its Executive Director and with the support of its Secretariat, shall participate in and facilitate, as appropriate, the work aimed at the establishment of such a Compensation Mechanism, and take the necessary steps to prepare for the Register to be transferred to a Compensation Mechanism in accordance with this Statute.

### **ARTICLE 3 – LEGAL STATUS AND SEAT**

3.1. The Register shall possess juridical personality under the national law of the Kingdom of the Netherlands and of Ukraine and thus enjoy such legal capacity as is necessary for the exercise of its functions, fulfilment of its mandate and the protection of its interests, in particular the capacity to contract and to acquire and dispose of movable and immovable property.

3.2. The Register shall have capacity to enter into arrangements with States, international organisations and bodies in furtherance of its mandate.

3.3. The Register shall have its seat in The Hague, the Kingdom of the Netherlands. The status and operation of the Register in the Kingdom of the Netherlands shall be regulated by a Host State Agreement concluded by the Council of Europe.

3.4. The Register shall also have a satellite office in Ukraine for the purpose of liaising with the Government of Ukraine and facilitating outreach and contact with potential claimants and the public at large in Ukraine, notably about the existence and purpose of the Register and the procedure for filing a claim for damage.

3.5. The General Agreement on Privileges and Immunities of the Council of Europe shall apply to the Register and its officials, including the Register’s satellite office in Ukraine.

### **ARTICLE 4 – PARTICIPATION**

4.1. Any member or observer State of the Council of Europe and the European Union, as well as any other State that has voted in favour of the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 “Furtherance of remedy and reparation for aggression against Ukraine”, may join the Register as a Participant by notification addressed to the Secretary General of the Council of Europe.

4.2. Any member or observer State of the Council of Europe and the European Union, as well as any other State that has voted in favour of the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 “Furtherance of remedy and reparation for aggression against Ukraine”, may join the Register as an Associate Member by notification addressed to the Secretary General of the Council of Europe. Associate Members are encouraged to provide voluntary contributions to the Register in accordance with Article 10. Associate Members may, at any time, become Participants by notification addressed to the Secretary General of the Council of Europe.

4.3. The Conference of Participants may authorise any other State or international organisation having so requested to join the Register as Participant or Associate Member, taking into particular account the position of the Government of Ukraine.

### **ARTICLE 5 – CONFERENCE OF PARTICIPANTS**

5.1. The Conference of Participants (hereinafter “the Conference”) shall be composed of one representative appointed by each Participant. Such appointments shall be communicated to the Secretary General of the Council of Europe.

5.2. The Conference shall elect from among its members a Chair and two Vice-Chairs for a period of three years.

5.3. The Conference shall:

- a. have overall responsibility for the fulfilment of the Register’s mandate;

- b. recommend to Participants and Associate Members measures to advance the aims of the Register;
- c. approve the rules and regulations proposed by the Board for governing the work of the Register;
- d. appoint the members of the Board;
- e. designate the Executive Director upon a proposal by the Government of Ukraine;
- f. adopt the annual budget of the Register;
- g. adopt the annual activity report of the Register;
- h. perform any other function vested in it by this Statute.

5.4. The Conference shall meet as often as is necessary, but at least once a year. Travel and accommodation costs relating to the Conference shall be borne by each Participant and Associate Member. The Conference may exercise its decision-making through written procedure and by electronic means.

5.5. The Conference shall adopt its decisions by a two-thirds majority of the votes cast, with each Participant having one vote. Procedural matters shall be settled by a majority of the votes cast. The Conference shall adopt its own rules of procedure and any other arrangements required for the implementation of its activities.

5.6. Without prejudice to Article 5, paragraph 7, Associate Members may participate in the meetings of the Conference without the right to vote. Associate Members may make oral or written statements in the meetings of the Conference.

5.7. Associate Members having made voluntary contributions to the Register of an amount equal to the amount determined by the Conference for Participants in accordance with Article 10, shall have the full range of rights of Participants during the financial year for which they made such a contribution.

5.8. The Secretary General of the Council of Europe may participate or be represented in the meetings of the Conference without the right to vote. The Conference may invite representatives of relevant Council of Europe bodies or international organisations to attend its meetings or a part of its meetings, without voting rights, according to the items on its agenda. It may also invite experts to be present for specific items of its agenda, without the right to vote.

#### **ARTICLE 6 – BOARD**

6.1. The Board of the Register (hereinafter “the Board”) shall be composed of seven members, taking into account their integrity, experience and multidisciplinary expertise necessary for the efficient functioning of the Register, notably as regards international law, war damages and claims, accounting, and loss assessment, as well as gender and global geographical balance. The Conference may change the number of members of the Board if it is necessary in order to ensure efficient functioning of the Register, taking into account the volume and complexity of claims and related workload of the Board.

6.2. One of the members of the Board shall be appointed by the Conference from among candidates nominated by the Government of Ukraine. The other members of the Board shall be appointed by the Conference from among candidates nominated by Participants and Associate Members. Subject to Article 6, paragraph 3, all the members of the Board shall be appointed for a term of office of three years, renewable once.

6.3. The appointment and removal procedures of the members of the Board shall be determined by the Conference.

6.4. The members of the Board shall sit in their individual capacity, be independent and impartial in the exercise of their functions and be available to carry out their duties in an effective manner. The members of the Board shall be remunerated by the Register for their work on terms established by the Conference.

6.5. The Board shall, without prejudice to Article 5:

- a. have responsibility for the exercise of the Register’s functions;

- b. propose the rules and regulations governing the work of the Register and implement them as appropriate, including, in particular as regards the determination of the categories of claims, the procedures for the receiving, processing and recording of claims, the format of the claim forms and the requirements for evidence with respect to each category of claims, that shall be approved by the Conference;
- c. have the ultimate authority in determining the eligibility of claims to be recorded in the Register, based on the recommendation of the Executive Director;
- d. perform any other function necessary for the fulfilment of the mandate of the Register that is not vested by this Statute in the Conference, Executive Director or Secretariat.

6.6. The Board shall determine the date from which the Register shall be open for submission of claims, evidence and related information.

6.7. The Board shall adopt its own rules of procedure and any other arrangements required for the implementation of its activities. The Board shall appoint a Chair and a Vice-Chair among its members for a term of office of three years, renewable once.

6.8. The Board shall meet regularly, but at least on a quarterly basis, in order to determine which claims should be recorded in the Register and to make any other decisions necessary to perform its functions. The Executive Director shall participate in these meetings in an advisory capacity.

6.9. The Board shall provide quarterly reports to the Conference. Such reports shall include the number of claims received and the number of eligible claims recorded in the Register, the relevant categories and the total amount of compensation sought (if applicable). Such reports shall also include the summary of other significant factual or legal matters relevant to the work of the Register.

#### **ARTICLE 7 – EXECUTIVE DIRECTOR**

7.1. The Executive Director shall represent the Register and is entitled to act on its behalf.

7.2. The Executive Director shall be entitled to enter into contracts and arrangements on behalf of the Register. Arrangements entered into by the Executive Director on behalf of the Register with national or international bodies providing for co-ordination of evidence gathering or any exchange of information on claims or evidence, shall be approved by the Board.

7.3. The Secretary General of the Council of Europe shall delegate to the Executive Director such powers that are necessary for the exercise of the duties of the Executive Director with respect to the Secretariat.

7.4. The Executive Director shall:

- a. have day-to-day responsibility for overseeing and administrating the work of the Secretariat of the Register;
- b. together with the Secretariat, ensure substantive, technical, administrative and organisational support for the work of the Conference and the Board, including regular liaison and preparation of their meetings;
- c. be responsible for forwarding claims to the Board for approval for recording in the Register;
- d. liaise with relevant national and international bodies on various issues related to the work of the Register and the process of collection of claims and evidence;
- e. liaise with the Government of the Kingdom of the Netherlands and the Government of Ukraine on various administrative matters related to the work of the Register;
- f. perform any other function vested in the Executive Director by this Statute.

7.5. The Executive Director shall be designated by the Conference upon proposal by the Government of Ukraine and appointed by the Secretary General of the Council of Europe, taking into account the integrity, experience and



multi-disciplinary expertise necessary for this post. The Executive Director may be dismissed for justified reasons by the Secretary General following a procedure initiated by the Government of Ukraine or the Secretary General and after agreement by the Conference.

#### **ARTICLE 8 – SECRETARIAT OF THE REGISTER**

8.1. The Secretariat shall, under the authority of the Executive Director, provide substantive, technical and administrative support for the maintenance and functioning of the Register.

8.2. Without prejudice to Article 8, paragraph 3, the Secretariat shall have full administrative autonomy from the Council of Europe and its bodies.

8.3. The Council of Europe Staff Regulations shall apply to the Secretariat.

#### **ARTICLE 9 – INDEPENDENCE**

9.1. In the performance of their duties, the members of the Board, the Executive Director and the Secretariat shall not seek or receive instructions from any government, international organisation or from any other authority external to the Register.

9.2. Each Participant and Associate Member of the Register, as well as the Council of Europe and its bodies, commit to respect the exclusively independent character of the responsibilities of the members of the Board, the Executive Director and the Secretariat and not to seek to influence them in the discharge of their responsibilities.

#### **ARTICLE 10 – FINANCING AND BUDGET**

10.1. The Register shall have its own budget in accordance with Statutory Resolution Res(93)28. The Conference shall adopt every year the Register's budget on expenditure, prepared by the Executive Director.

10.2. The Register shall be financed through the annual contributions of its Participants and voluntary contributions of its Associate Members.

10.3. The Conference shall determine both the amount of the annual contributions of its Participants and the recommended voluntary contributions of its Associate Members. These contributions should be based, as a rule, on the criteria for the determination of the annual scale of contributions to the general budget of the Council of Europe and can be adjusted in accordance with the principles on which that scale is based.

10.4. The Register may receive and utilise additional voluntary grants and other contributions connected with its work, including contributions in kind, subject to the prior authorisation of the Conference. These contributions shall be consistent with the aims and functions of the Register.

10.5. The Conference shall approve every year the Register's annual accounts, which shall be drawn up by the Secretary General of the Council of Europe in accordance with the Financial Regulations of the Council of Europe and submitted to the Conference accompanied by the report of the External Auditor as provided for in the Financial Regulations. In order to discharge the Secretary General from responsibility for the management of the financial year in question, the Conference shall transmit to the Committee of Ministers the annual accounts, together with its approval or any comments, and the report drawn up by the External Auditor, as provided for in the Financial Regulations.

10.6. The Financial Regulations of the Council of Europe shall apply to the adoption and management of the budget of the Register, taking into account the provisions of this Statute.

#### **ARTICLE 11 – CONFIDENTIALITY**

11.1. Subject to Article 11, paragraph 2, any information on claims and damage received by the Register, including any evidence, shall be treated as confidential.

11.2. Rules on access to documents and protection of data related to claims submitted to the Register shall be proposed by the Board and approved by the Conference, including on the sharing of information under the provisions of this Statute, in particular for the purposes of Article 2, paragraph 4.

#### **ARTICLE 12 – COUNCIL OF EUROPE RULES AND REGULATIONS**

The Conference, upon a justified proposal from the Board, may approve derogations from applicable Council of Europe rules and regulations if doing so is required for the efficient exercise of the Register's functions. Such approved derogations shall be communicated to the Committee of Ministers and the Secretary General of the Council of Europe.

#### **ARTICLE 13 – AMENDMENTS**

This Statute may be amended only by decision of the Committee of Ministers, in its composition restricted to the representatives of the States Participants of the Register, by the majority stipulated in Article 20.d of the Statute of the Council of Europe and an identically worded decision of the Conference.

#### **ARTICLE 14 – TRANSFER, SUCCESSION AND TERMINATION**

14.1. Following the establishment of a Compensation Mechanism as referred to in Article 2, paragraph 5, the work of the Register shall be transferred as appropriate to such Compensation Mechanism in a way that will ensure the uninterrupted operation of the Register until its termination and that will place information on claims and evidence contained therein at the disposal of such Compensation Mechanism. Such transfer shall include the digital platform of the Register, including all information about claims and evidence contained therein, other documentation, including archives, its movable and immovable property, including, but not limited to, bank accounts, IT equipment, software and any licenses thereto, contracts and arrangements of the Register, as well as any associated data.

14.2. The Board shall propose the necessary rules and procedures with a view to ensuring as appropriate a smooth transfer of the Register to such Compensation Mechanism. These rules shall be approved by the Conference.

14.3. Such Compensation Mechanism is intended to be a successor of the Register following the completion of such transfer.

14.4. After such transfer is completed, as determined by the Board and confirmed by the Conference, the Register shall be terminated as an Enlarged Partial Agreement of the Council of Europe.

#### **ARTICLE 15 – SETTLEMENT OF DISPUTES**

The Participants shall seek to resolve any dispute which may arise concerning the application or interpretation of the provisions of this Statute by negotiation or by any other means of peaceful settlement accepted by mutual agreement between them.

#### **ARTICLE 16 – WITHDRAWAL AND EXPULSION**

16.1. Any Participant or Associate Member may withdraw from the Register by means of a notification sent to the Secretary General of the Council of Europe.

16.2. The Secretary General shall acknowledge receipt of the notification and inform the Participants and Associate Members of the Register.

16.3. The withdrawal of a Participant shall take effect at the end of the financial year in which it is notified, if such notification is given before 1 June of that financial year, or at the end of the following financial year, if notification of withdrawal is given on or after 1 June of the financial year. The withdrawal of an Associate Member shall come into effect upon receipt of the notification.

16.4. In accordance with applicable provisions of the Financial Regulations of the Council of Europe, the Conference shall examine the financial consequences of the withdrawal or expulsion of a Participant or an Associate Member and shall make the appropriate arrangements.

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16.5. The Secretary General shall immediately inform the Participant concerned of the consequences of its withdrawal in accordance with Article 16, paragraph 3.

16.6. The Conference may decide that any Participant or Associate Member acting in a manner inconsistent with the mandate of the Register or impeding its functions, ceases to be a Participant or Associate Member of the Register as from such date as the Conference determines.