

THE COUNCIL OF EUROPE'S SUPPORT FOR UKRAINE IN THE FACE OF THE RUSSIAN FEDERATION'S AGGRESSION

Dr. Anna Dąbrowska

University of Technology and Humanities in Radom, Poland
e-mail: anna.dabrowska@uthrad.pl; <https://orcid.org/0000-0001-7843-3816>

Abstract. A year will have passed on 24 February 2023 since the Russian Federation invaded Ukraine, violating the territorial integrity and sovereignty of the state and some fundamental norms of international law. Europe faced a grave refugee crisis, the largest since the end of the WW2, in connection with forced population movements – around 14 million were forced to leave their homes. Ukraine is still suffering from the bombing and shelling of its civilians and critical infrastructure, death, destruction, resettlements, and suffering on an unprecedented scale, with no end in sight. Since the beginning of the Russian aggression, Ukraine has been receiving diverse support from other countries or international organisations. The Council of Europe, with Ukraine as a member since 1995, has assisted that nation in many fields.

Keywords: membership of the Council of Europe; Russo-Ukrainian conflict; the Russian Federation's aggression; support for Ukraine

INTRODUCTION

This paper has been inspired by the words “Ukraine needs Europe and Europe needs Ukraine”, spoken by the Chairman of the Council of Europe (‘the CE’, ‘the organisation’) Parliamentary Assembly Tiny Kox on the 31st anniversary of Ukraine regaining its independence.¹ These words have never been more topical, given the circumstances of the so-called special military operation² in Ukraine [Wyrozumska 2022, 30-55].

¹ To institute the primacy of its law over the laws of the Soviet Union laws, Ukraine declared its sovereignty on 16 July 1990. 24 August 1991, given the imminent collapse of the Soviet Union, independence was announced in Ukraine, to a massive support of the population in the 1 December 1991 referendum. A series of amendments to the 1978 Constitution paved the way for democracy.

² The way the Russian Federation's propaganda refers to the armed assault on Ukraine, an escalation of the Russo-Ukrainian conflict that commenced in 2014. See more in: Grzebyk 2022, 56-76; Wierczyńska 2022, 77-95.

Ukraine, since 9 November 1995 a member state of the Council of Europe, a government organisation, a pillar of democratic security in Europe, and a guarantor of human rights and the rule of law [Pratchett and Lowndes 2004, 67], has been in receipt of multi-faceted aid from a number of states and organisations, including the Council of Europe, since the very first day of the Russian Federation's illegal aggression, that is, 24 February 2022.

The author analyses the support from the CE to Ukraine, both from the organisation's statutory authorities³ (the Committee of Ministers and the Parliamentary Assembly) and various institutions in the CE system, including the Human Rights Commissioner or the European Court of Human Rights in Strasbourg, the guardian of the Convention for the Protection of Human Rights and Fundamental Freedoms⁴ ('the European Convention'). The Strasbourg decisions are major mechanisms of specifying and developing democratic standards that create a vision of a new Europe [Sweeney 2012, 43].

1. SOME GENERAL CHARACTERISTICS OF THE COUNCIL OF EUROPE

The state signatories to the CE Statutes affirmed: "[...] their profound devotion to the spiritual and moral values that form the shared heritage of their nations and a source for the principles of personal freedom, political liberties, and the rule of law that constitute the foundations of any genuine democracy."

Article 1 letter a of the CE Statutes provides the rationale for the existence of the organisation, that is, a greater unity among its members in order to protect and embody the ideals and principles that make up their shared heritage and to facilitate their economic and social progress. Article 3 of the CE Statutes contains the states' undertaking to be guided by the rule of law and guarantee the fundamental human rights to all those present within the jurisdiction of a given state. What's more, Article 8 of the CE Statutes stipulates a state in breach of these rights shall be excluded from the organisation. Z. Cichoń is right to note no international organisation

³ According to Article 10 of the CE's Statutes, adopted in London on 5 May 1949, the Committee of Ministers and the Advisory Assembly are the authorities of the Council of Europe. The Committee of Ministers is the main decision-making body of the organisation including the foreign ministers of its member states, while the Parliamentary Assembly is an advisory body that consists of the members delegated by national parliaments. See Council of Europe, Statute of the Council of Europe, 5 May 1949, ETS No. 001.

⁴ Council of Europe, The Convention for the Protection of Human Rights and Fundamental Freedoms, to be amended with Protocols 3, 5 and 8 and supplemented with Protocol 2, 11 April 1950, ETS No. 005.

has been grounded in such clear and broad foundations of human rights [Cichoń 2005, 179].

The creation of the CE arose from integration and federalist ideas emerging in Western Europe after the Second World War. In spite of some initial difficulties with determining the organisation's role in integration processes, it worked towards a stable and strong position in the region of a mainstay of democratic values, rule of law, and human rights that promotes the harmonisation of national legal orders. The Council of Europe, "the democratic conscience of Europe", develops "the international law of Europe" and adapts universal solutions (in particular, those adopted by the United Nations) to European conditions as part of its treaty activities that comprise cultural, social, economic, scientific or legal issues. This is built on a solid foundation of three fundamental values: democracy – the rule of law – human rights [Barcik and Srogosz 2014, 179]. Hans-Peter Furrer points out the obligation of carrying on the undertaking arising from the very *raison d'être* of the organisation seems more important than the sweeping mandate and institutional structure of the CE. That undertaking is the protection and promotion across Europe of the principles guaranteed in the Statutes that form the sole proper basis of a European 'Federation': democracy, the rule of law, and human rights. The respect for human rights appears especially important here – without caring for it, democracy is at risk. The rule of law, in turn, is to serve the protection of human rights, while democracy is more than a mere 'good management' [Furrer 2005, 26].

2. UKRAINE'S MEMBERSHIP OF THE COUNCIL OF EUROPE

As part of the CE accession procedure, states prepare to reach the standards allowing for their membership of the organisation [Winkler 1995, 154]. The Council of Europe's membership is attained not only when states express their interest but when they meet certain requirements connected to its axiological system. The threshold requirements, which allow the accession, and those resulting from membership can be distinguished. Thus, a state deciding to become a member accepts a whole array of undertakings to be fulfilled⁵ [Nordström 2008, 21].

Ukraine submitted its application to join the CE to the CE General Secretary on 14 July 1992. In its Resolution (92)29⁶ of 23 September 1992, the CE Committee of Ministers requested the Parliamentary Assembly's opinion

⁵ See more in: Djerić 2000, 605-29.

⁶ Resolution (92) 29 on Ukraine (Adopted by the Committee of Ministers on 23 September 1992 at the 480th meeting of the Ministers' Deputies), https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804f7beb [accessed: 26.01.2023].

on Ukraine joining the organisation. The Ukrainian Parliament was granted the status of the CE Parliamentary Assembly's special guest⁷ on 16 September 1992. Ukraine has taken part in a range of the Council of Europe's actions since then, through its participation in some intergovernmental programmes of cooperation and aid (especially on legal reform and human rights) and of the guest's special delegation's part in the work of the Parliamentary Assembly and its commissions. The 'political dialogue' between Ukraine and the CE Committee of Minister was initiated on 13 July 1994. Ukraine signed the *Framework Convention for the Protection of National Minorities*⁸ [Pawlak 2001] and joined the European Cultural Convention,⁹ European Convention on Information on Foreign Law¹⁰ and its additional protocol, and the European Outline Convention on Trans-Frontier Cooperation Between Territorial Communities or Authorities.¹¹

Ukraine could join the CE as the organisation opened to the states of Central and Eastern Europe. Ukraine was in the second group of post-communist states to join the Council of Europe and the European Convention in the second half of 1990s (the first wave of accessions took place in the first half of the 1990s, the second in the second half, and the third in the beginning of the 21st century). The first tranche comprised the fastest reforming CEE states, including Poland, the second and the third, post-Soviet and post-Yugoslav states [Kamiński 2014, 11].

On 9 November 1995, Ukraine finally became a member of the Council of Europe. Since then, assisting the country with the fulfilment of undertakings it took upon itself when joining the organisation has become a key objective of the cooperation¹² [Huber 2005]. A Council of Europe Office was established in Ukraine and officially began its operation on 6 October 2006. It supports the organisation in the area of protection for human rights, democracy, and the rule of law and coordinates projects and cooperation programmes.

At the time Ukraine was joining the CE and the European Convention,¹³ significant disparities were present between the Ukrainian law and practices and European standards. Views were expressed that the accession of post-Soviet states to the Council of Europe and the European Convention could be premature. Nonetheless, the CE and its judicial authority,

⁷ See more in: Benoit-Rohmer and Klebes 2006.

⁸ Council of Europe, 1 February 1995, ETS No. 157.

⁹ Council of Europe, 19 December 1954, ETS No. 018.

¹⁰ Council of Europe, 6 July 1968, ETS No. 062.

¹¹ Council of Europe, 21 May 1980, ETS No. 106.

¹² Ukraine's detailed undertakings in connection with its membership of the CE are described in the CE Parliamentary Assembly's Opinion No. 190 (1995).

¹³ Ukraine has been bound by the Convention since 11 September 1997.

the European Court of Human Rights, tolerated the state's failure to meet its obligations. In particular, there was no systemic response to the fact the judgments of the Strasbourg Court were ignored. That changed after the tragic events from the turn of 2013 and 2014. Since then, the European Convention and the ECHR ruling standards have been invoked as the normative points of reference for the transformations taking place [Kamiński 2014, 12].

A CE action plan for Ukraine for 2018-2021 was adopted as part of the collaboration,¹⁴ which includes the following areas: human rights, the rule of law, and democracy. This is a strategic instrument expected to aid Ukraine in its efforts to develop effective practices on human rights, the rule of law, and democracy and consequently to support the state with fulfilling its membership undertakings.¹⁵

3. THE COUNCIL OF EUROPE'S SUPPORT FOR UKRAINE

The Russo-Ukrainian conflict has been on the CE's agenda since the very beginning, i.e., 2014, when Russia occupied Crimea¹⁶ [Kranz 2014, 23-40]. The organisation and its bodies have kept reaffirming their support for Ukraine's sovereignty and territorial integrity within the borders recognised by the international community.

It should be noted it wasn't so at the very beginning, since the actions within the CE's institutional system apparently lacked consistency then. The CE's response to the annexation of Crimea by the Russian Federation may serve as an example. The Parliamentary Assembly responded by suspending the right of Russian representatives to hold management positions in the CE Assembly and to take part in the organisation's monitoring missions on 10 April 2014. In turn, Russian delegations have not participated in the body's work since 2016 and the Russian Federation has not paid membership fees of € 33m since 2017. In line with internal regulations, a failure to meet financial obligations for two years would entitle the CE Committee of Ministers to suspend the Russian representation to the organisation's statutory bodies until such time as the liabilities were settled.¹⁷ The inconsistency of the CE's actions also shows in the fact the representatives of the Russian Federation held their seats in the key authority, the Committee of Ministers, all of that time. On 17 May 2019, the Committee of Ministers in its Helsinki meeting expressed the opinion all the member states had the right

¹⁴ The action plan was subsequently extended until the end of 2022.

¹⁵ Council of Europe Action Plan for Ukraine 2018-2021, <https://rm.coe.int/coe-action-plan-for-ukraine-2018-2021-en/16807b4307> [accessed: 26.01.2023].

¹⁶ See more in: Merezhko 2015, 167-194.

¹⁷ Cf. Article 9 of the CE Statutes.

to be represented both in the Committee of Ministers and the Parliamentary Assembly. It was thus in favour – influenced by the diplomatic actions of Germany and France, assuming the Russian Federation would make concessions in its dealings with Ukraine – of restoring the Russian delegation's rights at the CE Parliamentary Assembly, which supported the move on 25 June 2019, with 118 delegates voting in favour, 62 against, and 10 abstaining. The parliamentarians from Estonia, Georgia, Lithuania, Latvia, Ukraine, and Poland were against [Kardaś and Rogoża 2019].

At the time, the human rights protection system failed Ukraine. Had the organisation's statutory bodies responded properly to the actions of the Russian Federation and became involved in the conflict over the disputed territories in Ukraine, the situation we have witnessed since February 2022 might have never passed.

The CE's narrative underwent a dramatic shift in connection with the events of 14 February 2022. The Chairman of the Parliamentary Assembly pointed out the Russian Federation's recognition of the so-called Donetsk and Luhansk People's Republics was a violation of international law and a unilateral breach of the Minsk agreements (signed in 2014 and 2015), which remain the sole basis of solving the conflict in Donbas.¹⁸

In the face of the illegal aggression, the Committee of Ministers, the main decision-making body of the organisation including the foreign ministers of its member states (replaced with standing representatives of the CE states, forming the Committee of Minister Delegates, on an everyday basis), also responded to the Russian Federation's action in compliance with the organisation's founding act as, on 25 February 2022, it decided to suspend the Russian Federation's right to representation in the CE Committee of Ministers and CE Parliamentary Assembly. This fact must be commended as a sign of European solidarity with the Ukrainian nation and state. As a consequence, the Russian Federation remained a member of the CE and a party to the conventions. In addition, the judge selected by the Russian Federation to the Strasbourg Court retained his post and complaints against the Russian Federation continue to be heard and resolved by the Court.

¹⁸ *Statement by PACE President Tiny Kox on the recognition of the so-called 'people's republics' of Donetsk and Luhansk by the Russian the Russian Federation*, <https://www.coe.int/en/web/kyiv/-/statement-by-pace-president-tiny-kox-on-the-recognition-of-the-so-called-people-s-republics-of-donetsk-and-luhansk-by-the-russian-the-Russian-Federation#> [accessed: 03.02.2023].

The CE Committee of Ministers¹⁹ and Parliamentary Assembly's²⁰ decision to instigate the procedure under Article 8 of the organisation's Statutes was another step. The provision says: "Every member of the Council of Europe in a grave breach of Article 3 may be suspended in their right to representation and called upon by the Committee of Ministers to resign by force of Article 7. Should the member fail to obey such a call, the Committee may resolve they are no longer a member of the Council as of a date to be set by the Committee."

On 1 and 4 March 2022, the European Court of Human Rights identified to the Russian Federation some temporary measures²¹ by force of Article 39 of its Rules,²² focussing on the respect for and assurance of the right to life and other human rights guaranteed in the European Convention. The Court believes temporary measures play an important role in preventing irreversible situations that prevent the Court from functioning properly and, if needed, securing the possibility of exercising the rights provided for by the European Convention.²³ Each state party to the European Convention which has been prescribed temporary measures in order to avoid irreparable harm to a victim of an alleged violation is bound to follow these rules and to refrain from any actions or negligence that would undermine the authority and effectiveness of a final decision.²⁴

¹⁹ The decisions of the Council Europe Committee of Ministers concerning the situation in Ukraine are available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a5a1f6 [accessed: 03.02.2023].

²⁰ It comprises parliamentarians designated by national parliaments and the membership of a national delegation must reflect the arrangement of forces in a parliament, as reviewed by the Assembly in its so-called procedure of powers approval. In effect, the Assembly, though unelected, is representative of the European public opinion and is referred to as 'the conscience of Europe'. The Congress of Local and Regional Authorities, whose two chambers (of Local Authorities and of Regions) assemble the representatives of self-government groups, is important as well [Jaskiernia 2020, 91ff].

²¹ The European Court grants urgent interim measures in application concerning Russian military operations on Ukrainian territory, <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7272764-9905947&filename=The%20Cour> [accessed: 23.01.2023].

²² The ECHR Rules of 3 October 2022 are available at https://www.echr.coe.int/Documents/Rules_Court_ENG.pdf [accessed: 03.02.2023].

²³ Cf. the ECHR judgment of 4 February 2005, Mamatkulov and Askarov against Turkey, complaints No. 46827/99 and 46951/99, HUDOC.

²⁴ The ECHR judgment of 20 March 1991, Cruz Varas and others against Sweden, complaint No. 15576/89, HUDOC. The ECHR's authority to apply provisional measures is also upheld in its judgment of 5 February 2002, Čonka against Belgium, complaint No. 51564/99 (HUDOC), where the Court points out finding an appeal effective under Article 13 of the European Convention does not mean its suspending effect must automatically be ensured, yet a party should have a real ability of preventing irreversible consequences of enforcing a decision before the end of proceedings.

In view of the above, the Court called on the Russian Federation to refrain from military attacks against the civilian population and vehicles in the territory attacked or besieged by the Russian army, including residential buildings, rescue vehicles, and other civilian facilities enjoying special protection, such schools and hospitals, and to promptly assure the safety of medical institutions, personnel, and vehicles. It stressed the Russian authorities should guarantee a free access to safe evacuation roads, healthcare, food and other necessary provisions to the civilian population, a quick and unhindered flow of humanitarian aid and movements of humanitarian staff.

In addition, the CE General Secretary made a decisive appeal to the Russian Federation to implement the provisional measures designated by the European Court of Human Rights on 1 and 4 March 2022 in order to provide the civilian population with a free access to safe evacuation roads and a quick flow of humanitarian aid, inter alia.

The situation in Ukraine has been an object of unflagging interest to a variety of the CE platforms. The consequences of the Russian Federation's aggression against Ukraine were discussed at an extraordinary meeting of the CE Parliamentary Assembly on 14-15 March 2022.²⁵

Following on the instigation of the procedure under Article 8 of the CE Statutes on 16 March 2022, the Committee of Ministers decided²⁶ the Russian Federation could no longer be a member of the organisation, with immediate effect, after 26 years of its membership,²⁷ and the General Secretary²⁸ notified the Russian Federation of the legal and financial effects of the decision.²⁹ In its plenary session of 5 September 2022, the European Court of Human Rights notified the Russian Federation was no longer a party to the European Convention as of 16 September 2022 and that

²⁵ Cf. Consequences of the Russian the Russian Federation's aggression against Ukraine – *Assembly debate* on 15 March 2022 (3rd and 4th sittings) (see Doc. 15477, report of the Committee on Political Affairs and Democracy, rapporteur: Ms Ingjerd Schou). *Text adopted by the Assembly* on 15 March 2022 (4th sitting), <https://pace.coe.int/en/files/29885/html> [accessed: 03.02.2023].

²⁶ Resolution CM/Res(2022)2 on the cessation of the membership of the Russian Federation to the Council of Europe (Adopted by the Committee of Ministers on 16 March 2022 at the 1428th meeting of the Ministers' Deputies), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a5da51 [accessed: 22.01.2023].

²⁷ The Russian Federation joined the CE on 28 February 1996.

²⁸ Although Article 10 of the CE Statutes doesn't identify it as the organisation's statutory authority, Articles 36-37 of the Statutes govern its competences.

²⁹ Resolution CM/Res(2022)1 on legal and financial consequences of the suspension of the Russian Federation from its rights of representation in the Council of Europe (Adopted by the Committee of Ministers on 2 March 2022 at the 1427th meeting of the Ministers' Deputies), https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a5b15f [accessed: 03.02.2023].

the office of the judge in relation to the Russian Federation would be discontinued at the same date.³⁰ Nonetheless, as stipulated by the European Convention, the Russian Federation is legally bound to enforce all the rulings and decisions of the Court relative to its actions or negligence until 16 September 2022.

It should be stressed Article 8 of the CE Statutes had been virtually dead before (its application to Turkey was considered in 1981), while in 2000, in connection with the Chechen conflict, the Russian Federation's right to vote at the CE Parliamentary Assembly was suspended; a similar sanction came into effect for the annexation of Crimea, as mentioned before.

The representatives of the CE member states have held talks and debates to help end the aggression against Ukraine for its duration. The organisation staunchly condemns the Russian attempt at annexing the Ukrainian territory and supports Ukraine in this respect. The Committee of Ministers has adopted a decision concerning an urgent need to ensure a comprehensive enforcement of accountability for the grave violations of international law in effect of the Russian aggression in order to prevent impunity and further violations.³¹

The organisation's General Secretary, Marija Pejčinović Burić,³² has condemned so-called referenda in the Ukrainian territories occupied by the Russian forces, regarding them as a further escalation of the conflict that breaches Ukraine's territorial integrity.

The Council of Europe experts continue to support the General Prosecutor and other Ukrainian agencies. An action plan has been agreed upon with the Ukrainian authorities designed to support reforms, bolster institutions, and assist the organisation's member states with supporting Ukrainian refugees.

Once attacked, Ukraine became a shield protecting the security of the entire Europe.³³ The Russian Federation's actions must be strongly condemned as a groundless and unprovoked aggression whose symptoms involve assaults on the civilian population and infrastructure, the cultural and religious heritage. It cannot be founded on international law or its

³⁰ Cf. the Resolution of the European Court of Human Rights, https://www.echr.coe.int/Documents/Resolution_ECHR_cessation_Russia_Convention_20220916_ENG.pdf [accessed: 03.02.2023].

³¹ Ministers' Deputies Decisions CM/Del/Dec(2022)1442/2.3, 15 September 2022, 1442nd meeting, 14-15 September 2022, 2.3 Consequences of the aggression of the Russian Federation against Ukraine – Accountability for international crimes, https://search.coe.int/cm/pages/result_details.aspx?objectId=0900001680a8135a [accessed: 03.02.2023].

³² The former Deputy Prime Minister and Foreign Minister of Croatia became the CE's General Secretary on 26 June 2019.

³³ See more in: Kupiecki 2015, 9-26.

past violations by other states, including the violations of the ban on the use of armed force, as they don't substantiate any current or future violations. This is a view shared by the Council of Europe, too, which keeps reaffirming its support for the populations of Crimea and the whole Ukraine in efforts to end this cruel war as soon as practicable.

The CE Committee of Ministers, in cooperation with the Ukrainian government, has adopted an action plan for Ukraine for 2023-2026³⁴ concerning the country's reconstruction given the brutal aggression of the Russian Federation and designed to foster the democratic rule of law and the protection of human rights. The document addresses the progress Ukraine has made on fulfilling the standards created by the CE, especially under the previous action plan for the years 2018-2022. It is intended to support Ukraine's efforts to meet its obligations connected to its membership of the organisation. The plan's priorities reflect the decisions, resolutions, recommendations, report conclusions, and opinions issued by the CE Committee of Ministers, Parliamentary Assembly, Congress of Local and Regional Authorities, and Human Rights Commissioner. The plan is also to support the programme of Ukrainian reform in a European perspective on foot of the Council of Europe's decision of 23 June 2022 to award the status of an EU candidate state to Ukraine and the undertaking, made at the conference on the reconstruction of Ukraine in Lugano (Switzerland) on 4-5 July 2022 to combine Ukraine's endeavour to join the European structures with the process of the country's rebuilding. The overall budget for four years is estimated at € 50m, the biggest ever Council of Europe's budget for a national action plan.

The CE Parliamentary Assembly has unanimously demanded a special international criminal court to be established in the Hague to prosecute Russian and Belarusian political and military leaders who 'planned, prepared, initiated or carried out' Russia's aggressive war against Ukraine. Such a court should be "supported and maintained by as many states and international organisations as possible, in particular, by the UN General Assembly." The Council of Europe should play an active leading role in its appointment and operation and provide for its tangible support. This postulate is of paramount importance, given that no other international criminal court is currently competent to prosecute and punish the criminal aggression against Ukraine. The civilised world is under no illusion the acts perpetrated on the Ukrainian civilians, the murders, compulsory resettlements or the russification of Ukrainian children can be called a genocide. The Parliamentary Assembly added the UN's inability to oppose the Russian

³⁴ Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023-2026; Document prepared by the Directorate of Programme Co-ordination, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a96440 [accessed: 03.02.2023].

aggression due to the abuses of the right to veto in the Security Council is “an existential threat to the international order founded on principles” and that it supported any efforts and discussions to bring some order to the situation.³⁵

As part of the action plan for 2018-2022, the CE supplied some IT office equipment to the War Crimes Department of Ukraine's General Prosecutor on 22 December 2022. It had been bought as part of the CE project “Human Rights Compliant Criminal Justice System in Ukraine”. A total of 79 laptops, 79 all-in-ones/printers, and 16 video cameras were delivered. Additional equipment, namely, memory cards and hard disks, were supplied before the end of 2022.³⁶

CONCLUSIONS

The unfounded, destructive war in Ukraine had long seemed but a political threat, a means of applying pressure. It proved a historical fact, however, that should not only shock the public opinion and elicit aid to the Ukrainian authorities, military or population, but also make one think about the future of not only Europe but also the entire world. The CE has also found itself at a junction where it must make a decision about its future – does it spell a collapse of the European system of human rights protection, or is it a moment when it will acquire a new meaning?

It is quite unfortunate that the CE apparatus lacks smarter sanctions that would focus on the responsible ones. As things stand, it is hardly possible to suspend a state from the CE and expect it to continue being a party to the Court. It is more than likely that the suspended state would either withdraw soon after the suspension or be expelled by the CE Committee of Ministers. The European Convention itself requires that only member states to the CE can be parties to it.³⁷ This inflexibility of the CE system of sanctions reflects the rather old-fashioned – state-centric structure of international law, which traditionally relies on state consent and sovereignty. Generally speaking, it is now time to start reconsidering this and thinking

³⁵ Legal and human rights aspects of the Russian Federation's aggression against Ukraine, Resolution no. 2482(2023), Parliamentary 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), <https://pace.coe.int/en/files/31620/html> [accessed: 03.02.2023].

³⁶ The purchase and delivery of the equipment were organised under the CE project ‘Human Rights Compliant Criminal Justice System in Ukraine’, part of the Council of Europe's Action Plan for Ukraine for 2018-2022. See more about the project at <https://www.coe.int/en/web/kyiv/human-rights-complaint-criminal-justice-system-in-ukraine> [accessed: 03.02.2023].

³⁷ Cf. Article 58(3) of the European Convention.

about designing more resilient, effective, and efficient international human rights regimes.

Both the CE Committee of Ministers and the Parliamentary Assembly should liaise between the parties to the Russo-Ukrainian conflict. Although the situation has changed dramatically after the Russian Federation left the CE, the dialogue with Russia must be restored.

It should be concluded Ukraine's membership of the Council of Europe was not merely a token confirmation of its acceptance into 'the group of democratic states' but has also routed the process of systemic transformation and political stabilisation to a significant degree. The CE's multifaceted support for the bleeding Ukraine is not illusory, but real.

The Council of Europe is of the opinion the Russian Federation's aggression on the sovereign territory of Ukraine, severely condemned in each utterance from the representatives of the CE's statutory bodies and other institutions, is responsible for a massive suffering of the Ukrainian population and constitutes a breach of peace on an unprecedented scale, never witnessed on the European continent since the CE was formed.

The international community the CE is part of in the region must be at all times ready to support Ukraine. It seems the Council of Europe will uphold its support of Ukraine and will not withdraw it any time soon. This has been corroborated by, among others, the CE General Secretary, who said 'Ukraine must take central stage' at the approaching CE summit, scheduled for May 2023 in Reykjavik, and "the accountability for death and destruction caused by the Russian aggression is of key importance."³⁸

REFERENCES

- Barcik, Jacek, and Tomasz Srogosz. 2014. *Prawo międzynarodowe publiczne*. C.H. Beck: Warszawa.
- Benoit-Rohmer, Florence, and Heinrich Klebes. 2006. *Prawo Rady Europy. W stronę ogólnoeuropejskiej przestrzeni prawnej*. Warszawa: Wydawnictwo Naukowe Scholar.
- Cichoń, Zbigniew. 2005. "Europejska Konwencja Praw Człowieka nadal najskuteczniejszym na świecie instrumentem ochrony praw człowieka." *Palestra* 11-12:179-88.
- Djerić, Vladimir. 2000. "Admission to membership of the Council of Europe and legal consequences of commitments entered into by new Member States." *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 60:605-29.
- Furrer, Hans-Peter. 2005. "Przekraczanie linii podziałów. Wydarzenia polityczne w Radzie Europy od 1989 r. – historia i analiza własnych doświadczeń." In *Polska*

³⁸ *Secretary General: Ukraine is our priority and Russia must account for its aggression; urges ambition for upcoming summit*, <https://www.coe.int/en/web/portal/-/secretary-general-ukraine-is-our-priority-and-russia-must-account-for-its-aggression-urges-ambition-for-upcoming-summit> [accessed: 03.02.2023].

- i Rada Europy 1990-2005*, edited by Hanna Machińska, 25-39. Warszawa: Ośrodek Informacji Rady Europy.
- Grzebyk, Patrycja. 2022. “«Specjalna operacja wojskowa» Rosji w Ukrainie – indywidualna odpowiedzialność za zbrodnie agresji i zbrodnie wojenne.” *Państwo i Prawo* 9:56-76.
- Huber, Denis. 2005. “Rada Europy po rozszerzeniu, umocnienie jedności kontynentu w obecnych realiach.” In *Polska i Rada Europy 1990-2005*, edited by Hanna Machińska, 40-57. Warszawa: Wydawnictwo Naukowe Scholar.
- Jaskiernia, Jerzy. 2020. “70 lat Rady Europy. Nowe wyzwania w obszarze demokracji, praworządności i ochrony praw człowieka.” *Państwo i Prawo* 3:91-105.
- Kamiński, Ireneusz C. 2014. “Ukraina w orzecznictwie Europejskiego Trybunału Praw Człowieka.” *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego* 12:11-38.
- Kardaś, Symon, and Jadwiga Rogoża. 2019. “«Rosja wraca do Rady Europy». Analizy Ośrodka Studiów Wschodnich.” 20.05.2019. <https://www.osw.waw.pl/pl/publikacje/analizy/2019-05-20/rosja-wraca-do-the-Council-Europy> [accessed: 03.02.2023].
- Kranz, Jerzy. 2014. “Kilka uwag na tle aneksji Krymu przez Rosję.” *Państwo i Prawo* 8:23-40.
- Kupiecki, Robert. 2015. “Konflikt zbrojny na Ukrainie a bezpieczeństwo europejskiej.” *Zeszyty Naukowe Akademii Obrony Narodowej* 3(100):9-26.
- Merezhko, Oleksandr. 2015. “Crimea’s Annexation by Russia – Contradictions of the New Russian Doctrine of International Law.” *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 75:167-94.
- Nordström, Andreas. 2008. *The Interactive Dynamics of Regulation: the Council of Europe’s Monitoring of Ukraine*. Stockholm: Statsvetenskapliga institutionen.
- Pawlak, Stanisław. 2001. *Ochrona mniejszości narodowych w Europie*. Warszawa: Fundacja Studiów Międzynarodowych, Wydawnictwo Naukowe Scholar.
- Pratchett, Lawrence, and Vivien Lowndes. 2004. *Developing Democracy in Europe: An Analytical Summary of the Council of Europe*. Strasbourg: Council of Europe.
- Sweeney, James A. 2012. *The European Court of Human Rights in the Post-Cold War Era: Universality in Transition*. New York: Routledge.
- Wierczyńska, Karolina. 2022. “«Specjalna operacja wojskowa» Rosji w Ukrainie – indywidualna odpowiedzialność za zbrodnie ludobójstwa i zbrodnie przeciwko ludzkości.” *Państwo i Prawo* 9:77-95.
- Winkler, Herwig. 1995. “Survey of the Admission Practice of the Council of Europe.” *Austrian Journal of Public and International Law* 2-3:153-77.
- Wyrozumska, Anna. 2022. “«Specjalna operacja wojskowa» Federacji Rosyjskiej na Ukrainie w sądach międzynarodowych.” *Państwo i Prawo* 9:30-55.