

## Follow-up of the Reykjavik Summit of the Council of Europe – working paper by CURE

25 May 2023

This document presents a quick overview of points requiring consideration in following up on the Reykjavik Declaration adopted by the 4<sup>th</sup> Council of Europe Summit of Heads of State and Government of 16-17 May 2023<sup>1</sup>.

The points are categorized according to the ten headings of the Hague Civil Society Declaration on Council of Europe Reform<sup>2</sup>, the main outcome document of the Civil Society Summit of 28 February – 1 March, and the final “3 + 3 points” call<sup>3</sup> of 3 May by CURE. Many of these points are identical to or overlap with official Council of Europe preparatory documents for the Summit, including the 2022 High-Level Reflection Group’s report<sup>4</sup> and the January 2023 PACE report and recommendation<sup>5</sup>.

Logically and necessarily, the Summit paid a lot of attention to Russia’s war of aggression against Ukraine, and how the Council of Europe as an organization working on human rights, the rule of law and democracy can help in dealing with its consequences. This major issue is addressed at the end of this paper.

### **1. Resources**

In the Hague Civil Society Declaration, the comments by the High-Level Reflection Group about the limited overall ordinary budget of the Council of Europe were taken up, leading to a call to be open to raising the budget ceiling. The historically determined ceiling should not forever be a given in negotiations about the budget.

The Reykjavik Declaration recognizes the need for more resources for the European Court of Human Rights and for the Department for the Execution of Judgments (Appendix IV, para. 19 and 21). But other aspects of the Council’s work also merit being considered for budget increases. Some of these indeed are mentioned in the Reykjavik Declaration itself: strengthening of follow-up of Venice Commission’s opinions and of European Social Charter procedures, living up to the ambitions of the Reykjavik Process (see point 6 of this paper), sufficient resources for engagement with youth and civil society (point 7),

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<sup>1</sup> Reykjavik Declaration “United around our values” adopted by the 4th Summit of Heads of State and Government of the Council of Europe (Reykjavik, Iceland, 16-17 May 2023), <https://rm.coe.int/0900001680ab364c> (here and further this paper makes references to the numbering of paragraphs in the main text of the Declaration and Appendices to it).

<sup>2</sup> The Civil Society Summit was convened by CURE and by CINGO; the Hague Declaration (full text including explanatory notes) can be found here, <https://cure-campaign.org/wp-content/uploads/CSSDeclarationFullFinal.pdf>, and additional statements on the war in Ukraine and on Turkey here, <https://cure-campaign.org/wp-content/uploads/StatementUkraineFinal.pdf> and here, <https://cure-campaign.org/wp-content/uploads/StatementTurkeyFinal.pdf>

<sup>3</sup> <https://www.linkedin.com/feed/update/urn:li:activity:7059538070479511552/>

<sup>4</sup> <https://rm.coe.int/report-of-the-high-level-reflection-group-of-the-council-of-europe-/1680a85cf1>

<sup>5</sup> <https://pace.coe.int/en/files/31483>

and the need to bring the Reykjavik Principles to life (point 9). Efforts related to accountability and redress for violations committed in Russia's war against Ukraine will require a lot of resources in the foreseeable future but should not prevent a reconsideration of the overall resource needs for the regular programme of the CoE.

So CURE argues that the Council of Europe **budget talks for 2024-2027<sup>6</sup> should not take the existing overall budget as an absolute ceiling; important effectiveness-increasing potential lies in a range of program areas, and they may require a higher overall budget. The Committee of Ministers should create a transparent budget development process that seeks input from stakeholders on the programmatic ambitions that different budget levels will allow for.**

## **2. The European Convention on Human Rights**

Ensuring the implementation of the European Convention of Human Rights is the key task of the Council of Europe. A properly functioning European Court of Human Rights and effective and good faith execution of its judgments by member states are essential features of the system. We commend that the special Appendix IV on the Convention system calls for the need to sufficiently resource both the Court and the supervision of the implementation of judgments (Appendix IV, para 19, 20), and that all relevant actors in the Council of Europe system and its supporters in civil society are called on to contribute to joint efforts to promote implementation (para 21 – 29).

Suggestions from various stakeholders to take concrete measures to add institutional tools to strengthen the implementation of Court judgements were not taken on board by the Summit. The Appendix says that the Committee of Ministers should *"continue their work enhancing the tools available in the supervision of the execution of judgments with clear and predictable, gradual steps in the event of non-execution or persistent refusal to execute the final judgments of the Court, in an appropriate and flexible way, that takes into account the specificities of each case"* (para 30). CURE calls for **special planning and regular reporting efforts on the entirety of implementation-enhancing measures (Appendix IV, paras 20 to 30) in a format that pays attention to the role of each of the relevant actors.**

CURE will also continue to advocate for **impeccable implementation by states of interim measures issued by the Court, as these are an integral aspect of the effectiveness of the Convention system and for the possibility to implement the Court judgments, once these have been issued. For this reason, the implementation of interim measures should be on the Committee of Ministers agenda.**

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<sup>6</sup> Planned for summer/autumn 2023, for the timeline see page 5 of <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680aac50a>, *"(...) Following the 4th Summit, a framework document for the preparation of the Programme and Budget 2024-2027 will be presented early June 2023. This document will set out how the top-down priorities will be incorporated into the Programme, a revised programme structure to reflect the priorities, the overall budgetary framework and main parameters, the impact of funding scenarios and options in particular for the implementation of the Summit outcomes, and the main thrusts of the continued reform agenda. The Budget Committee will examine the framework document at its June meeting and its comments will feed into the discussions in the CM/GR-PBA in June/July 2023 (...) Discussions in the GR-PBA will continue over October and November to prepare the decisions to be adopted at the Committee of Ministers' Budget meeting on 21-23 November 2023."*

### **3. Monitoring and preventive systems**

CURE sees a series of Council of Europe standards and processes as important additions to the ECHR system, and argues that lack of follow-up of conclusions from these mechanisms should be placed on the agenda of the Committee of Ministers. In this light, it is welcome that the Reykjavik Declaration gives special attention to the need for better follow-up of Venice Commission's recommendations on the rule of law (para 23), to implementation of the European Social Charter (para 24), and to *"strengthening the institution of the Council of Europe's Commissioner for Human Rights, particularly in light of the need for principled and swift action to address backsliding and other evolving human rights challenges"* (para 41).

**All these points merit an explicit place on the agenda of upcoming chairmanships of the Council of Europe, and discussions with current and former representatives of these mechanisms, as well as with experts from academia and civil society.**

### **4. Gender equality, LGBTIQ+ and women's rights**

The Reykjavik Declaration (para 33) lauds *"the pioneering role of the Council of Europe, including through the Istanbul Convention, in the fight against violence against women and domestic violence"*. This rather limited reference to this important Convention probably reflects its politically controversial status.

Full ratification and progressive implementation of the Istanbul Convention should remain the aim. There is an obvious role here for civil society, in cooperation with allies in the legal and political arenas, and members of GREVIO. CURE will take up with actors in this field **the possible strengthening of coalitions to achieve the aim of full ratification.**

**A new, bold Council of Europe Gender Equality Strategy (2024-2029) should address persistent problems, in particular the reactionary anti-gender backlash and its impact on the right to abortion, the right to bodily autonomy and self-determination of gender identity in member states.**

CURE regrets the lack of any mention in the Reykjavik Declaration of the Council's efforts on the protection of rights of LGBTIQ+ people, starting back in 2010 with the adoption of the Committee of Minister's Recommendation to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, followed by the creation in 2014 of a Sexual Orientation and Gender Identity (SOGI) Unit in the Council's Secretariat. **It is crucial these steps are reinforced; also, protection of LGBTIQ+ people from stigmatisation, exclusion, intolerance, hate speech, violence and discrimination should continue to be included in wider efforts to tackle discrimination, intolerance and exclusion.**

### **5. Conflict-affected territories**

The Hague Civil Society Declaration asks for special efforts in the interest of inhabitants of conflict-affected territories of states that are member of the Council of Europe. They often suffer severe human rights abuses but have difficulty in obtaining justice. The Reykjavik Declaration only mentions this subject in connection with judgments the Court can pass addressing these situations (paras 12 and 17 of Appendix IV). **The implementation of Court judgments also may require special efforts by and extraordinary attention from the Committee of Ministers. The potential of other actors in the Council of Europe system to affect the human rights situation in conflict-affected territories should also be considered in this context.**

## **6. Environment**

The recognition of the *“urgency of additional efforts to protect the environment, as well as to counter the impact of the triple planetary crisis of pollution, climate change and loss of biodiversity on human rights, democracy and the rule of law”* (para 28) is commendable, as well as the commitment to strengthen *“work on the human rights aspects of the environment and initiate the Reykjavik process of focusing and strengthening the work of the Council of Europe in this field”*.

At the same time, Appendix V on the environment mostly consists of recalling existing work, and the commitments in paragraph 10 remain very general. It is important indeed that work should be concluded as soon as possible on *“a convention superseding and replacing the European Convention on the Protection of Environment through Criminal Law”* (subpara. iv), and that its full ratification and (the monitoring of its) implementation be made a high priority. The same is true for *“the consideration of the need for and feasibility of a new instrument or instruments in the field of human rights and the environment”* (also subpara. iv) – the point on which the Hague Declaration asks for an Additional Protocol to the ECHR.

**The ambitions of the “Reykjavik Process” and the “Reykjavik Committee” will have to be commensurate with the urgency of the triple planetary crisis that is recognized in the Declaration, and in particular prioritize the development of effective and strong legal standards on the protection of the environment.**

## **7. Civil society**

The Hague Declaration calls on the Council of Europe to fully embrace the notion of free civil society being an essential ally in human rights and democracy protection and to beef up its relations with civil society accordingly. Space for civil society should be protected. The Reykjavik Declaration claims to *“set the Council on a new path of increased transparency and co-operation with its stakeholders, with strengthened visibility and sufficient resources. This should include a youth perspective in the Organisation’s intergovernmental and other deliberations as youth participation in decision-making processes improves the effectiveness of public policies and strengthens democratic institutions through open dialogue. We also call for a review and further reinforcement of the Organisation’s outreach to, and meaningful engagement with, civil society organisations and national human rights institutions”* (para 40).

This is a potentially promising formula but **much work remains to be done in following up, including the provision as announced of sufficient resources.** CURE calls for **the review of Council of Europe engagement with civil society to seek and take on board contributions from actors both inside and outside the Conference of INGOs and aim for a deepening of the interaction with Council of Europe processes both by civil society actors who are able and willing to come to Strasbourg and those whose strongest potential contribution lies at national level.**

**Steps should be taken to address problems of shrinking space for civil society that can be observed in member states, for example by setting up a Platform on threats to civil society along the same lines as the Safety of Journalists’ Platform, and by strengthening follow up to concerns expressed by the Commissioner for Human Rights.**

## **8. Civil society and democratic forces of Belarus and Russia**

The Reykjavik Declaration reiterates *“the pan-European role of the Council of Europe and in this regard, we will step up and strengthen the Council of Europe’s engagement with democratic actors in Europe and its efforts to create an enabling environment for human rights defenders”* and says that in particular *“the work of the Contact Group on co-operation with Belarusian democratic forces and civil society”* should be pursued, and ways found *“to strengthen co-operation with Russian and Belarussian human rights defenders, democratic forces, free media and independent civil society”* (paras 25 and 26).

CURE welcomes this approach. **Belarus and Russia are different cases in many respects and require their own approaches. In both situations, political calls and declarations should be turned into an actionable strategy of engagement with those who support Council of Europe values and (support for) outreach to a wider audience on these values.**

## **9. Democracy**

The Reykjavik Declarations underlines the commitment *“to securing and strengthening democracy and good governance at all levels throughout Europe. (...) However, democratic backsliding, external threats and new challenges lead us to strengthen our resolve and to adopt the Reykjavik Principles for Democracy, set forth in Appendix III. We commit to delivering on them to promote, protect and strengthen democracy throughout our member States and to engage in regular, high-level dialogue with member States and partners on the above-mentioned principles. (...)”* (paras 20 and 21).

The Reykjavik Principles for Democracy bear similarity to the “12 Principles of Good Democratic Governance” that were agreed for the local level in 2008, and are currently being turned into a Council of Europe recommendation applicable to all levels of government.<sup>7</sup> The degree to which the implementation of these principles can and will be monitored seems crucial for them to attain real value. This requires the definition of standards that are sufficiently concrete to be monitored, and putting in place a mechanism to actually carry out monitoring, report on it and follow-up on those reports. (In some important areas most of these steps have been taken already, for example on holding free and fair elections – there it is mostly the follow-up to reports that is not secured. In other areas a monitoring framework still needs to be constructed.) CURE calls for **a concerted effort to create democracy standards that can be monitored, and to put in place a system of monitoring and reporting on these standards. The existing process on the 12 Principles of Good Democratic Governance can be a first step but is by no means sufficient in itself.**

While the Summit has not taken over any of the suggestions for the creation of new high-level positions on priority subject, made in the report of the High-Level Reflection Group, in the PACE report and in the Hague Declaration, **a high-level appointment, which could have a temporary mandate, would be one way to signal determination on democracy standards.**

## **10. Public information space**

Point 30 of the Reykjavik Declaration asserts the Council of Europe’s *“prominent role in international standard-setting on freedom of expression and related issues such as media freedom, and access to information and combatting hate speech and disinformation, including the instrumentalisation of history, in particular in the light of the increasing impact of digital technologies on these issues.”* Point 29 commits to a *“leading role for the Council of Europe in developing standards in the digital era to*

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<sup>7</sup> See <https://www.coe.int/en/web/good-governance/cddg>

*safeguard human rights online and offline, including by finalising, as a priority, the Council of Europe's Framework Convention on Artificial Intelligence."*

These steps are probably needed for the "sustainable, independent public information space", which the Hague Declaration is calling for, but not sufficient in the face of current technological developments. **High priority needs to be given to continued work on steps towards a sustainable, independent public information space.**

**At the same time, in the day to day work, higher priority should be placed on following up on alerts issued on the Safety of Journalists' Platform, including by insisting on member states' responses on how they are solving the issues raised in the alerts.**

### **The War in Ukraine**

Discussions about realizing accountability for violations of international standards by the Russian state and by persons in the Russian military chain of command have been happening since the beginning of the major armed assault on Ukraine in February 2022. Judgments by the European Court of Human Rights on inter-state complaints by Ukraine and on individual complaints by Ukrainian citizens will surely play a role in accountability efforts.

The setting up of the Enlarged Partial Agreement on a 'Register of Damage Caused by the Aggression of the Russian Federation against Ukraine' (Appendix I of the Reykjavik Declaration) is an important new step by the Council of Europe. It is a great extension of the possibility to complain to the ECtHR on damage to life and property. It is essential that this agreement be followed by steps to actually make Russia pay for the damages caused, including by when necessary confiscating Russian state property as the Ukrainian government has announced it has started doing at national level.

In this context, it is important to note the Reykjavik Declaration's assertion that the Russian Federation has an "unconditional obligation under international law to implement all final judgments and decisions of the Court in relation to its acts or omissions capable of constituting a violation of the Convention that occurred until 16 September 2022" (Appendix IV, para 6), and that every effort should be made "to ensure the execution of the Court's judgments by the Russian Federation" (para 17). The latter provision has a special importance for judgments concerning actions during Russian (efforts at) occupation of territories not just of Ukraine but also of Georgia and Moldova. Where just satisfaction amounts decided by the Court are not paid by Russia, confiscation of Russian state property should be the next step considered.

CURE calls for **urgent next steps on reparation and compensation mechanisms for human rights abuses suffered by victims of Russian aggression and/or occupation, to be applied both following up on ECtHR judgments and in the creation of a reparation scheme linked to the Register of Damages.**