



Doc. 13808 – Compendium of written amendments
24/06/2015

(Final version)

Missing persons during the conflict in Ukraine

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A. Draft Resolution

1. The Parliamentary Assembly is seriously concerned about the growing number of cases of missing persons reported in the areas of military action in the Donetsk and Luhansk regions of Ukraine, as well as in Crimea.
2. Since the beginning of the conflict in these areas, in early 2014, more than 1 300 persons have been reported missing. This figure, which only takes into account data collected by the Ukrainian authorities, is in reality certainly higher. Among the missing persons are not only soldiers, but also civilians, including volunteers who were helping victims of the conflict. Their fate and whereabouts are unknown and difficult to determine as their most likely location is in the territory which remains under the control of separatist groups.
3. The Assembly welcomes the efforts undertaken by the Ukrainian authorities with a view to determining the fate and whereabouts of missing persons. In particular, it commends the establishment of an Interagency Centre for Assistance in the Release of Captives and Hostages and the Search for Missing Persons under the responsibility of the State Security Service of Ukraine and the creation of a unified register of pretrial investigations (including a database of DNA samples of unidentified bodies and the relatives of missing persons) within the Ministry of Internal Affairs, which have significantly facilitated the identification procedure of missing persons.

Amendment 2

Tabled by Ms Mariia IONOVA, Mr Volodymyr ARIEV, Mr Serhii SOBOLEEV, Mr Andrii LOPUSHANSKYI, Mr Boryslav BEREZA, Mr Georgii LOGVYNSKYI, Mr Valeriu GHILETCHI, Mr Giorgi KANDELAKI, Mr Aleksandar NIKOLOSKI, Mr David BAKRADZE, Mr Viktor VOVK

In the draft resolution, paragraph 1, after the words "military action in" insert the following words: "certain areas of".

Amendment 1

Tabled by Ms Mariia IONOVA, Mr Volodymyr ARIEV, Mr Serhii SOBOLEEV, Mr Andrii LOPUSHANSKYI, Mr Boryslav BEREZA, Mr Georgii LOGVYNSKYI, Mr Valeriu GHILETCHI, Mr Giorgi KANDELAKI, Mr David BAKRADZE, Mr Viktor VOVK

In the draft resolution, paragraph 1, replace the word "Crimea" with the following words: "occupied Crimea".

Amendment 3

Tabled by Ms Mariia IONOVA, Mr Volodymyr ARIEV, Mr Serhii SOBOLEEV, Mr Andrii LOPUSHANSKYI, Mr Boryslav BEREZA, Mr Georgii LOGVYNSKYI, Mr Valeriu GHILETCHI, Mr Giorgi KANDELAKI, Mr David BAKRADZE, Mr Viktor VOVK

In the draft resolution, paragraph 2, first sentence, replace the words "conflict in these areas" with the words: "Russian aggression in Ukraine".

Amendment 4

Tabled by Ms Mariia IONOVA, Mr Volodymyr ARIEV, Mr Serhii SOBOLEEV, Mr Andrii LOPUSHANSKYI, Mr Boryslav BEREZA, Mr Georgii LOGVYNSKYI, Mr Valeriu GHILETCHI, Mr Pedro AGRAMUNT, Sir Christopher CHOPE, Mr Robert WALTER, Mr Jordi XUCLÀ, Mr Giorgi KANDELAKI, Mr David BAKRADZE, Mr Viktor VOVK

In the draft resolution, after paragraph 3, insert the following paragraph:

"The Assembly deplores the decision of the President of the Russian Federation to classify information on casualties among the personnel

of the Armed Forces of the Russian Federation incurred in special operations during peacetime."

4. At the same time, however, the Assembly considers that the issue of missing persons requires a more comprehensive approach at governmental level and should include the co-ordination of the work of various volunteer and human rights organisations with regard to tracing and collecting information on missing persons. Furthermore, the medical, social and financial assistance offered to the families of missing persons is largely insufficient.
5. The Assembly emphasises that the problem of missing persons can only be solved through the joint efforts of all sides of the conflict. The Assembly therefore urges Ukraine, the Russian Federation and the separatist groups controlling the occupied territories of Donetsk and Luhansk region to:
 - 5.1. provide an efficient response, in terms of investigation and support for families, to all reported cases of missing persons, in compliance with international humanitarian law;
 - 5.2. share information on the fate and whereabouts of missing persons and return unidentified bodies, where appropriate, to the respective sides of the conflict;
 - 5.3. establish a joint mechanism (working group) to deal with the issue of missing persons, and ensure its functioning, with a view to:
 - 5.3.1. collecting and processing information on missing persons;
 - 5.3.2. creating a consolidated list of missing persons;
 - 5.3.3. introducing effective measures enabling tracing, recovery and identification of the human remains;
 - 5.3.4. ensuring access to burial places;
 - 5.3.5. providing exhaustive information to the relatives of missing persons on the progress on their cases;
 - 5.3.6. involving and co-ordinating action of non-governmental and volunteer organisations dealing with tracing missing persons;
 - 5.4. systematically collect post mortem data from unidentified bodies, as well as DNA samples from the families of missing persons;
 - 5.5. accelerate the process of identification of exhumed bodies using all available means, including DNA matching, the matching of ante and post mortem data and visual identification, as determined by forensic experts;
 - 5.6. provide financial, medical and social assistance to the families of missing persons;
 - 5.7. facilitate access and the work of civil society and international humanitarian organisations tracing missing persons;

- 5.8. encourage the mass media to attract public attention to the problem of missing persons.
6. The Assembly further urges the Ukrainian authorities to:
 - 6.1. create a dedicated governmental mechanism, tasked with the co-ordination of the work of all governmental and non-governmental bodies working on the issue of missing persons, and in particular to:
 - 6.1.1. ensure sufficient budgetary funds for its functioning;
 - 6.1.2. create and maintain a unified data register with regard to missing persons during the conflict in Ukraine;
 - 6.1.3. provide adequate funding for tracing operations;
 - 6.1.4. elaborate a mechanism of State compensation and support to the families of missing persons and ensure that the families concerned are informed about the existence of this mechanism;
 - 6.1.5. include in its work non-governmental organisations, volunteer associations and representatives of the families of missing persons;
 - 6.2. introduce into the legislation a provision ensuring the right of families to know what has happened to relatives who remain unaccounted for in connection with armed conflicts and internal violence, in compliance with the relevant provisions of international humanitarian law;
 - 6.3. strengthen legal measures dealing with the problem of missing person, in particular to consider the adoption of a specific law on missing persons which would introduce a legal status of “missing” and “war victim”, allowing the families concerned to benefit from financial, social and legal assistance, including a mechanism of State compensation;
 - 6.4. address the needs of single heads of families of missing persons, taking into consideration specific needs of women and children;
 - 6.5. further develop national capacities specialised in forensic and tracing expertise and encourage them to assimilate the experience of the International Committee of the Red Cross (ICRC) in this respect;
 - 6.6. provide adequate legal and awareness-raising training for all officials concerned with regard to the implementation of legal provisions and administrative procedures when addressing the rights of the families of missing persons.
7. The Assembly urges the separatist groups which control the occupied territories in the Donetsk and Luhansk regions to:
 - 7.1. release all captured prisoners and hostages;
 - 7.2. create a local mechanism dealing with the issues of captured and missing persons;

Amendment 5

Tabled by Ms Mariia IONOVA, Mr Volodymyr ARIEV, Mr Serhii SOBOLIEV, Mr Andrii LOPUSHANSKYI, Mr Boryslav BEREZA, Mr Georgii LOGVYNSKYI, Mr Valeriu GHILETCHI, Mr Giorgi KANDELAKI, Mr Aleksandar

NIKOLOSKI, Mr David BAKRADZE, Mr Viktor VOVK

In the draft resolution, replace paragraphs 7.2 and 7.3 with the following paragraph: "engage effectively with the work of appropriate working subgroups of the Trilateral Contact Group in accordance with the Minsk agreements, with a view to dealing with the issues of captured and missing persons and identifying possible grave sites;"

- 7.3. work together with the Ukrainian side on identifying possible grave sites;
- 7.4. grant access for international humanitarian missions to places of detention of prisoners.
- 8. The Assembly further urges the authorities of the Russian Federation to:
 - 8.1. release all prisoners illegally captured in Ukrainian territory;
 - 8.2. conduct an effective investigation and prosecute perpetrators in cases of abduction, enforced disappearances, torture and politically motivated killings of Ukrainian activists and members of the Crimean Tatar community;
 - 8.3. exercise pressure over the separatist groups which control the occupied territories in the Donetsk and Luhansk regions for the immediate release of all civilians held in custody on the territory under their control and for the exchange of prisoners;
 - 8.4. create a national mechanism to deal with the issues of captured and missing persons during the conflict in Ukraine;
 - 8.5. provide the families of missing Russian soldiers with accurate information on the fate and whereabouts of their missing relatives;
 - 8.6. immediately grant access to the territory of Crimea to international human rights monitoring missions.

Amendment 6

Tabled by Ms Mariia IONOVA, Mr Volodymyr ARIEV, Mr Serhii SOBOLEEV, Mr Andrii LOPUSHANSKYI, Mr Boryslav BEREZA, Mr Georgii LOGVYNSKYI, Mr Valeriu GHILETCHI, Mr Giorgi KANDELAKI, Mr Aleksandar NIKOLOSKI, Mr David BAKRADZE, Mr Viktor VOVK

In the draft resolution, paragraph 8.6, replace the word "Crimea" with the following words: "occupied Crimea".

- 9. The Assembly also calls on the member States to provide:
 - 9.1. financial and technical assistance to the Ukrainian authorities responsible for exhumation and the identification process;

- 9.2. necessary assistance to deal with the psychological effects on the families of missing persons;
- 9.3. financial assistance to the associations of families of missing persons and non-governmental organisations tracing missing persons.
- 10. The Assembly encourages the International Committee of the Red Cross (ICRC) to make available their expertise to Ukrainian institutions, in particular in:
 - 10.1. training national specialists in the documentation of missing cases, the consolidation of lists and the assessment of and response to the needs of the families;
 - 10.2. providing technical assistance, in particular in setting up the DNA laboratory in Dnipropetrovsk and supplying reagents for the DNA tests;
 - 10.3. informing the Ukrainian population about the main aspects of international humanitarian law.
- 11. The Assembly invites the Council of Europe Commissioner for Human Rights to follow the problem of the missing persons during the conflict in Ukraine.

B. Draft Recommendation

1. The Parliamentary Assembly refers to its Resolution ... (2015) on missing persons during the conflict in Ukraine.
2. The Assembly stresses that the issue of missing persons in Ukraine is a serious European problem which may hinder the prospects for a peaceful settlement in the region and have negative consequences on the process of reconciliation.
3. The Assembly therefore recommends that the Committee of Ministers identify possible contributions by the Council of Europe to the ongoing process of clarifying the fate and whereabouts of missing persons in connection with the conflict in Ukraine, and offer relevant expertise, especially in the framework of co-operation programmes.