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(Revised version)

The humanitarian concerns with regard to people captured during the war in Ukraine

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A. Draft Resolution

1. Since the annexation of Crimea by the Russian Federation and the beginning of military aggression in the Luhansk and Donetsk regions in eastern Ukraine, hundreds of Ukrainian servicemen and civilians have been reported captured or abducted.

Amendment 4
Tabled by Mr Erkan KANDEMİR, Mr Talip KÜÇÜKCAN, Mr Burhanettin UYSAL, Mr Suat ÖNAL, Mr Şaban DİŞLİ, Mr Mehmet BABAOĞLU, Mr Orhan MİROĞLU

In the draft resolution, paragraph 1, before the word "annexation", insert the word "illegal".

2. According to the Security Service of Ukraine, 3 015 captured persons have been released since April 2014, but 123 persons are still being held captive by the separatists and 693 are still reported missing. However, these numbers do not include all the people who have been captured by the separatists in the occupied territories, as their relatives are often afraid to declare their captivity to the Ukrainian authorities.

3. The Parliamentary Assembly is deeply concerned about the numerous reports of inhumane and degrading treatment of captured persons, who are subjected to torture, ill-treatment and sexual violence. Moreover, there is also evidence that captured persons have been executed by the separatist forces.

4. The Assembly is also very worried about the situation in Crimea where, since the annexation of the peninsula by the Russian Federation, the defacto authorities have been using Russian legislation against extremism, separatism and terrorism to detain Crimean-Tatar and Ukrainian activists.

Amendment 5
Tabled by Mr Erkan KANDEMİR, Mr Talip KÜÇÜKCAN, Mr Burhanettin UYSAL, Mr Suat ÖNAL, Mr Şaban DİŞLİ, Mr Mehmet BABAOĞLU, Mr Orhan MİROĞLU

In the draft resolution, paragraph 4, before the word "annexation", insert the word "illegal".

Amendment 1
Tabled by Mr Sergiy VLASENKO, Mr Leonid YEMETS, Mr Volodymyr ARIEV, Ms Olena SOTNYK, Mr Serhii SOBOLIEV, Mr Georgii LOGVYNSKYI, Mr Oleksii GONCHARENKO, Mr Andrii LOPUSHANSKYI, Mr Giorgi KANDELAKI

In the draft resolution, at the end of paragraph 4, add the following sentence: "The Assembly condemns the recent banning of the Mejlis as an extremist organisation, which is contrary to international standards and demonstrates the systematic violation of the Crimean Tatars' rights."

5. Furthermore, the Assembly is alarmed by reports from human rights defenders concerning 13 Ukrainian prisoners reportedly being detained by the Russian authorities in violation of international law on fabricated charges. The most flagrant example is the case of a member of the Parliamentary Assembly, Ms Nadiia Savchenko, who was forcibly taken to the Russian

Federation and has been illegally held in custody since June 2014 despite, inter alia, her enjoying immunity under Article 40.a of the Statute of the Council of Europe (ETS No. 1) and the General Agreement on Privileges and Immunities of the Council of Europe and its Protocol (ETS Nos. 2 and 10) to which the Russian Federation is a Party. Additionally, at least eight Ukrainian citizens are being held in Crimea on political motivated charges.

6. Moreover, the Assembly notes with great concern reported cases of violations of the right to liberty and the right to fair trial of those who have been detained by the Ukrainian secret services or by different Ukrainian military battalions, including voluntary battalions. It calls on the Ukrainian authorities to investigate all such cases and to punish the perpetrators in accordance with the relevant Ukrainian legislation.

7. The Assembly believes that without the strong determination of all sides to stop this war, a solution to the problem of people captured during the Russian military aggressions in Ukraine is not possible. Therefore, it urges Ukraine, the Russian Federation and the separatist groups controlling the occupied territories of Donetsk and Luhansk region to:

7.1. stop all military actions in the East of Ukraine, withdraw all weapons and to restore peace in this region;

7.2. implement, without further delay, the Minsk Agreement, especially prioritising the paragraph on the release of all captured persons; their release should not be based upon the fulfilment of other Minsk Agreement points;

7.3. respect international humanitarian law and the rights and obligations of the parties in respect of prisoners of war and the protection of civilians, which are provided for in the Third and Fourth Geneva Convention of 1949 and the two Additional Protocols of 1977 (on international and non-international armed conflicts);

7.4. grant international humanitarian organisations access to all detainees, without any conditions.

8. The Assembly further urges the authorities of the Russian Federation to:

8.1. release all Ukrainian prisoners captured and imprisoned in the Russian Federation and in annexed Crimea on politically motivated charges, including, but not limited to, Mr Ahtem Çiygöz;

Amendment 6
Tabled by Mr Erkan KANDEMİR, Mr Talip KÜÇÜKCAN, Mr Burhanettin UYSAL, Mr Suat ÖNAL, Mr Şaban DİŞLİ, Mr Mehmet BABAOĞLU, Mr Orhan MİROĞLU

In the draft resolution, paragraph 8.1, before the word "annexed", insert the word "illegally".

8.2. conduct effective investigations and prosecute perpetrators in cases of abduction, enforced disappearances, torture and politically motivated killings of Ukrainian and Crimean-Tatar activists in Crimea;

8.3. use its influence over the separatist groups which control the occupied territories in the Donetsk and Luhansk regions to urge them to release all Ukrainian captives;

8.4. immediately grant international human rights monitoring missions access to the territory of Crimea;

Amendment 2
Tabled by Mr Sergiy VLASENKO, Mr Leonid YEMETS, Mr Volodymyr ARIEV, Ms Olena SOTNYK, Mr Serhii SOBOLIEV, Mr Georgii LOGVYNSKYI, Mr Oleksii GONCHARENKO, Mr Andrii LOPUSHANSKYI

In the draft resolution, replace paragraph 8.4 with the following paragraph:

"immediately provide unimpeded access to Crimea for conventional and monitoring mechanisms of international human rights organisations;"

8.5. immediately release Ms Savchenko, who enjoys European parliamentary immunity under the General Agreement on Privileges and Immunities of the Council of Europe, and other illegally detained Ukrainian prisoners, and allow their return to Ukraine.

9. The Assembly urges the separatist groups which control the occupied territories in the Donetsk and Luhansk regions to:

9.1. release all captured prisoners and hostages;

9.2. stop all violations of human rights, in particular the abduction, torture and politically motivated killing of Ukrainian citizens;

9.3. co-operate with the Ukrainian side in the co-ordination of lists and categories of captured persons with a view to their exchange in the framework of the Minsk Agreement “All to all”;

9.4. grant international humanitarian missions access to all places of detention of captured persons.

10. The Assembly further urges the Ukrainian authorities to:

10.1. as regards legal measures:

10.1.1. ratify the Rome Statute in order to allow the International Criminal Court to conduct effective investigations into concrete cases of violations of international humanitarian law during the war in Ukraine;

Amendment 3
Tabled by Mr Dmytro SHPENOV, Mr Sergiy VLASENKO, Mr Oleksandr BILOVOL, Mr Filippo LOMBARDI, Mr Georgii LOGVYNSKYI

In the draft resolution, paragraph 10.1.1, after the word "ratify", insert the following words: "in the shortest possible time".

10.1.2. conduct effective investigations and prosecute of all perpetrators concerning cases of abduction and taking of captives, as well as concerning cases of extortion, bribery and corruption linked to the liberation of captured persons;

10.1.3. bring its national legislation, including the Criminal Code and the Code of Criminal Procedure into line with the provisions of international criminal law, and in particular include a status of captured person, and declare torture a serious crime;

10.1.4. modify the Law “On preventing persecution and punishment of participants of events on the territories of

Donetsk and Luhansk Oblasts", ensure that persons who have committed war crimes do not receive amnesty, and ensure that amnesty is only used after a proper investigation and a fair trial;

10.1.5. elaborate a new law on psychological rehabilitation in close consultation with NGOs and international specialists working in this field, in particular taking into account the needs of victims of military actions;

10.2. as regards assistance to captured persons and their families:

10.2.1. devise a mechanism of State compensation and support to the families of captured persons and ensure that the families concerned are informed about the existence of this mechanism;

10.2.2. ensure that, after their liberation, captured persons are assisted with their return home and provided with medical, social and psychological support;

10.2.3. introduce a special procedure to facilitate the restoration of documents of released persons;

10.2.4. provide special training to psychologists and other medical staff on how to provide psychological rehabilitation which addresses the specific needs of captured persons and their families;

10.2.5. consider appointing an official representative of the Ukrainian authorities, whose mission would be to co-ordinate humanitarian and social aid to the civilian population in the occupied territories, in close co-operation with international humanitarian organisations, and to facilitate the process of the exchange of captives.

11. The Assembly calls on the international community to be more involved in the process of the release of captives, in particular it calls on:

11.1. the Organization for Security and Co-operation in Europe to facilitate negotiations and the settlement of the problem of captured persons in the humanitarian working group set up under the Minsk Agreement;

11.2. the International Committee of the Red Cross to step up its efforts to obtain unrestricted access to all persons detained in relation to the war, monitor their conditions of detention and the treatment afforded to them and, in its capacity of neutral intermediary, facilitate operations of simultaneous liberation.

12. The Assembly encourages the European Committee for the Prevention of Torture or Degrading Treatment or Punishment to establish a special monitoring mission to check the conditions of detention of Ukrainian prisoners detained for political motives in the Russian Federation as well as in Crimea and those illegally held on the territories under the control of the so-called "Donetsk People's Republic" and "Luhansk People's Republic". The mission should also monitor the situation of those who were detained by the Ukrainian authorities on allegations of their involvement in separatist and terrorist activities during the war in Ukraine.

B. Draft Recommendation

1. The Parliamentary Assembly refers to its Resolution … (2016) on the humanitarian concerns with regard to people captured during the war in Ukraine.

2. The Assembly recommends that the Committee of Ministers include psychological assistance to the captured persons and their families in the assistance programmes provided in the framework of the implementation of the current Action Plan for Ukraine.

3. The Assembly also asks the Committee of Ministers to encourage the Ukrainian and Russian authorities to facilitate monitoring visits by the European Committee for the Prevention of Torture or Degrading Treatment or Punishment to check the conditions of detention of Ukrainian citizens detained for political motives in the Russian Federation as well as in Crimea and those illegally held in the territories under the control of the so-called “Donetsk People’s Republic” and “Luhansk People’s Republic”.