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(Final version)

Safeguarding and promoting genuine democracy in Europe

Contents	Page
A. Draft Resolution	2
B. Draft Recommendation	7

A. Draft Resolution

1. The Parliamentary Assembly is deeply concerned about a clear democratic backsliding across the world. Europe has not been spared by this phenomenon, which has resulted in, inter alia, a weakening in checks and balances and the role of the opposition, obstacles and limitations to the exercise of civil and political rights and freedoms, as guaranteed by the European Convention on Human Rights (ETS No. 5), particularly freedom of expression, assembly and association, and an erosion of the rule of law. This backsliding has also been marked by citizens' decreasing faith in democratic institutions.
2. In view of this alarming situation, there is an urgent need for Council of Europe member States to renew their commitment to safeguarding and promoting genuine democracy, based on the principles of individual freedom, political liberty and the rule of law, as enshrined in the Statute of the Council of Europe (ETS No. 1), while addressing the root causes of democratic backsliding.
3. In the face of the Russian Federation's aggression against Ukraine, the Assembly recalls that realising genuine democracy is not only a commitment of each member State towards their citizens but also a responsibility to other member States since it is only genuine democracies which can guarantee democratic security and achieve the common goal of "[pursuing] peace based upon justice and international co-operation".

Amendment 1 **Tabled by the Committee on Legal Affairs** **and Human Rights**

In the draft resolution, paragraph 2, after the words "political liberty", insert the following words:

", other human rights".

Amendment 10 **Tabled by Ms Boriana ÅBERG, Ms Annicka** **ENGBLOM, Mr Emanuelis ZINGERIS, Mr Uldis** **BUDRIKIS, Mr Davor Ivo STIER, Mr Joseph** **O'REILLY**

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

"The Assembly reiterates that, in order to safeguard and maintain democratic security, respect the rule of law and guarantee fundamental rights and freedoms for each and every human being within the Council of Europe, genuine democracy implies that member States should fully refrain from threatening the use of force to resolve international and internal disputes."

Sub-amendment 1 to amendment 10 **Tabled by the Committee on Political Affairs** **and Democracy**

In amendment 10, replace the words "genuine democracy implies that member States should fully refrain from threatening the use of" with the following words:

"member States should refrain from threatening to use, or using,"

4. The Assembly underlines that democracy is not the dictatorship of the majority, and that democratic legitimacy does not derive solely from winning elections but encompasses the daily practice of democratic governance in the exercise of power and the functioning of institutions. Moreover, any theory attempting to justify the existence of other forms of democracy including, in particular, non-pluralistic democracies, is doomed to failure owing to its inconsistency: genuine democracy must guarantee, among other things, fundamental rights and freedoms, including those of civil society, political pluralism, and the independence of the judiciary and the media, and be based on the rule of law.
5. In this respect, the Assembly reiterates the relevance of the work carried out by the European Commission for Democracy through Law (Venice Commission) on the functioning of democratic institutions, fundamental rights, and electoral law, including the Code of Good Practice in Electoral Matters, the Rule of Law Checklist and the Checklist on the Relationship between the Parliamentary Majority and the Opposition in a Democracy.
6. The Assembly is heedful of the criticism that traditional democratic institutions and political forces have failed to meet citizens' expectations in response to major challenges in recent decades such as globalisation, migratory movements, the digital revolution and its impact on all aspects of society, climate change, economic stagnation and growing inequalities, which are said to have contributed to a general feeling of dissatisfaction with democracy.

Amendment 2
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 4, second sentence, delete the following words:

"other forms of democracy, including, in particular,".

Amendment 3
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, after paragraph 5, insert the following paragraph:

"The Assembly notes that the European Court of Human Rights has reiterated that democracy constitutes a fundamental element of the "European public order" and is indeed the only political model compatible with the European Convention on Human Rights. The Court has repeatedly held that democracy must be based on pluralism, tolerance, dialogue and a spirit of compromise."

Amendment 4
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 6, replace the words "is heedful of" with the following word:

"understands".

Amendment 11
Tabled by Ms Boriana ÅBERG, Ms Annicka ENGBLOM, Mr Emanuelis ZINGERIS, Mr Uldis BUDRIKIS, Mr Davor Ivo STIER, Mr Joseph O'REILLY

In the draft resolution, after paragraph 6, insert the following paragraph:

"The Assembly acknowledges that the criticism of traditional democratic institutions is a result of the manipulation, misuse or abuse of European constitutional settings and standards leading to the usurping of power by constitutional changes, including abolishing consecutive term limits for executives, legitimising incumbents' lifetime appointments, amending constitutions for overcoming constitutional time-limits or legalising the transfer of power to incumbents' family members."

7. The Covid-19 pandemic has only added both to this loss of faith and to the erosion of democratic safeguards, as reflected in a series of Assembly Resolutions and Recommendations on various aspects of the health crisis and its effects. Referring to Resolution 2337 (2020) "Democracies facing the Covid-19 pandemic", the Assembly reiterates that "democracy, human rights, and the rule of law cannot be allowed to become 'collateral damage' of the pandemic".

8. In light of the foregoing, recalling that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation as noted in the Statute of the Council of Europe, the Assembly urges the Council of Europe member States to renew the commitments they have undertaken when joining the Organisation and to honour them in the spirit in which they were first formulated. It invites them in particular to:

8.1. guarantee the right to freedom of thought and expression, while combating the disinformation which undermines society's faith in the media and more broadly in democratic institutions;

8.2. guarantee freedom of assembly and association and create an environment conducive to civil society activities, including non-governmental organisations;

8.3. guarantee the safety of human rights defenders, especially journalists, lawyers and members of non-governmental organisations, and to support them, including financially;

8.4. guarantee the independence and pluralism of the media by taking the necessary measures to prevent, in particular, high concentration of their ownership and to ensure transparency as to their sources of funding and ownership;

8.5. guarantee the right to free and fair elections and, in that context to:

**Amendment 5
Tabled by the Committee on Legal Affairs
and Human Rights**

In the draft resolution, at the end of paragraph 7, add the following sentence:

"Recalling Resolution 2338 (2020) "The impact of the Covid-19 pandemic on human rights and the rule of law", the Assembly also reiterates that the obligation to take measures to protect the life and health of populations cannot give States a free hand to trample on rights, suppress freedoms, dismantle democracy or violate the rule of law."

**Amendment 6
Tabled by the Committee on Legal Affairs
and Human Rights**

In the draft resolution, paragraph 8.3, after the words "non-governmental organisations," insert the following words:

"in accordance with Resolution 2225 (2018) "Protecting human rights defenders in Council of Europe member States";".

- 8.5.1. ensure that the electoral process is organised and supervised by an independent and impartial authority;
- 8.5.2. ensure that election campaigns are covered in a balanced way by the media;
- 8.5.3. initiate a discussion on the decline in electoral turnout and, where appropriate, adjust electoral practices and systems so as to restore faith in the electoral process;
- 8.6. guarantee an effective, impartial and independent judicial system, in particular by limiting the powers of the executive and the legislature to appoint and transfer judges and by ensuring the administrative and financial independence of the judiciary;
- 8.7. ensure that the legislative process is as inclusive as possible and that the parliamentary opposition has sufficient resources to scrutinise government activity;
- 8.8. promote equality and provide effective protection against discrimination and hatred;
- 8.9. guarantee good democratic governance, by ensuring, in particular, that the local and regional authorities have the necessary powers, adequate financial resources and skilled staff to provide the best possible services to the entire population;
- 8.10. include education for democratic citizenship in the curriculum from the earliest age on so that citizens – and

Amendment 7
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, after paragraph 8.5.1, insert the following paragraph:

"establish effective and fair procedures for the resolution of electoral disputes, including judicial ones;"

Amendment 8
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, replace paragraph 8.6 with the following paragraph:

"guarantee an effective, impartial and independent judicial system which is key to the very existence of the rule of law, and to that end: - abolish the ability of the executive or the legislature to arbitrarily appoint judges; - abolish the power of the executive or the legislature to transfer or dismiss judges; - ensure the administrative and financial independence of the judiciary;"

Amendment 9
Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, after paragraph 8.6, insert the following paragraph:

"ensure full respect by the executive, the legislature and any other State authority for the rule of law, including the principles of legality, legal certainty and the obligation to abide by the judgments and decisions of the courts, especially those of constitutional courts, even when they do not agree with them;"

young people in particular – can acquire the skills to develop a culture of democracy;

- 8.11. involve citizens, especially young citizens, in political decision making, including through consultation and other inclusive forms of participation and deliberation.
9. The Assembly invites international organisations which share the Council of Europe's values, starting with the European Union and the Organization for Security and Co-operation in Europe, to increase their co-operation with the Council of Europe in order to find common solutions to the shared problem of democratic backsliding.

B. Draft Recommendation

1. Referring to Resolution ... (2022) "Safeguarding and promoting genuine democracy in Europe", the Parliamentary Assembly expresses its deep concern at the democratic backsliding in the Council of Europe member States, as noted, inter alia, by the Secretary General of the Council of Europe in her reports on the state of democracy, human rights and the rule of law.
2. In light of this observation, there is an urgent need for the Council of Europe to step up its activities to support its member States in their efforts to achieve genuine democracy based on the principles of individual freedom, political liberty and the rule of law, as enshrined in the Statute of the Council of Europe (ETS No. 1), while addressing the root causes of democratic backsliding.
3. For each member State of Council of Europe, it is a responsibility not just to their citizens but also to other States, insofar as only genuine democracies can guarantee democratic security and achieve the common goal of "[pursuing] peace based upon justice and international co-operation".
4. In light of the foregoing, the Assembly invites the Committee of Ministers to:
 - 4.1. ask the Secretary General of the Council of Europe to consider ways of optimising and intensifying Council of Europe activities in the area of democracy and democratic governance so as to increase their impact and consistency, and to take this into account when conducting the mid-term review of its programme of activities;
 - 4.2. set up a permanent platform on democracy, which would be based on the expertise of various Council of Europe bodies, structures and activities and which would serve as a permanent platform for the exchange of information, good practices and innovations for the benefit of member States' public authorities and other stakeholders in democracy such as political parties, non-governmental organisations and representatives of civil society, in conformity with the decision adopted by the Committee of Ministers at its 129th session (Helsinki, 17 May 2019) entitled "A shared responsibility for democratic security in Europe – The need to strengthen the protection and promotion of civil society space in Europe", where it was agreed to "examine further options for strengthening the role and meaningful participation of civil society organisations, and national human rights institutions in the Organisation, with the view to increasing its openness and transparency towards civil society";
 - 4.3. in light of its reflection on monitoring, consider setting up an early warning mechanism of the Council of Europe to prevent or address worrying developments with regard to compliance with democratic standards and practices in member States;
 - 4.4. consider establishing increased co-operation with other international organisations which share Council of Europe

values and which play an active role in strengthening democratic resilience.