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**(Final version)**

## **Reported cases of political prisoners in the Russian Federation**

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## A. Draft Resolution

1. The Parliamentary Assembly is appalled by the large and growing number of political prisoners in the Russian Federation and the pattern of systematic repression against any and all opponents of the current authorities which they follow.
2. It recalls that the European Court of Human Rights has delivered multiple judgments in which it has found violations of the European Convention on Human Rights (ETS No. 5) against the Russian Federation arising from the arbitrary arrest and detention of opposition politicians, civil society activists, and ordinary citizens peacefully demonstrating.
3. These violations of the right to liberty and security are often combined with violations of the applicants' rights to freedom of assembly and to a fair trial.
4. In some of these cases, the Court noted that the arbitrary arrest and detention of the applicants "had an effect of preventing or discouraging them and others from participating in protest rallies and engaging actively in opposition politics".
5. The Assembly notes that in several judgments concerning Alexei Navalny, a prominent opposition politician and anti-corruption campaigner, the Court also found violations of Article 18 in conjunction with other Articles of the Convention, based on the authorities' misuse of domestic law for the ulterior purpose of suppressing political pluralism. The object of Article 18, which prohibits States from restricting the rights and freedoms enshrined in the Convention for purposes not prescribed by the Convention itself, is to prevent the misuse of power ("détournement de pouvoir").
6. It is evident from the Court's evaluation of converging contextual evidence that the Russian authorities have become increasingly severe in their response to the activities of Mr Navalny and other political activists and, more generally, in their approach to public assemblies of a political nature. These developments must also be seen in the context of the increasing repression of political opponents over the past several years, or as the Court said in its Article 18 judgments, in "the broader context of the Russian authorities' attempts (...) to bring the opposition's political activity under control".
7. Furthermore, the judgments of the Court finding a violation of Article 18, and many others finding violations of the right to liberty and security, the right to a fair trial, freedom of expression or freedom of assembly, establish facts that clearly satisfy the Assembly's definition of "political prisoner", as set out in its Resolution 1900 (2012).
8. The Assembly further recalls that many other cases addressed in the past years by the Assembly and its rapporteurs or by the Council of Europe Commissioner for Human Rights can also be inferred to fulfil one or more of

the criteria set out in the Assembly's definition of "political prisoner".

9. The Assembly condemns the introduction of a number of restrictive laws, including the "foreign agents" law, the law on "undesirable organisations" and the law on "extremism" which have contributed to the growing and systematic repression of political opponents, journalists, human rights defenders and civil society activists in the Russian Federation. These repressive laws have all been criticised by different Council of Europe bodies, including the European Commission for Democracy through Law (Venice Commission). Consequently, it should be noted that the increasing scourge of political prisoners is due to structural and systemic causes that have only been exacerbated by the recent actions of the Russian authorities.
10. The Assembly recalls that lists of political prisoners have long been maintained by the Memorial Human Rights Centre, one of Russian Federation's most respected non-governmental organisations. According to the latest information from Memorial there are 447 political prisoners in Russian Federation, including 87 strictly political prisoners and 360 persons imprisoned on religious grounds. Having regard to the strict criteria applied by Memorial, which are based on, but not identical to, the definition in Resolution 1900 (2012), the Assembly considers these lists to be credible and reliable and concludes that the persons featuring on them can be presumed to be political prisoners who should therefore be released.
11. The Assembly notes that among the 360 persons imprisoned on religious grounds according to Memorial, many are Jehovah's Witnesses who have been regarded as "extremists" following the Supreme Court's judgment of 2017 ordering the liquidation of the central body and 395 local religious organisations of Jehovah's Witnesses. As a consequence of this liquidation and the application of the law on "extremism", members of Jehovah's Witnesses have been criminally prosecuted and continue to be imprisoned in breach of their freedom of thought, conscience and religion.
12. The Assembly reiterates its deep concern over the specific situation of Crimean Tatars addressed in Resolution 2387 (2021), in which, inter alia, it called on the Russian authorities to release any person unlawfully detained or imprisoned due to the abusive application of Russian law in Crimea, including for political reasons, and

#### **Amendment 7**

**Tabled by Mr Caspar van den BERG, Mr Claude KERN, Mr Boriss CILEVIČS, Mr Jean-Pierre GRIN, Ms Fiona O'LOUGHLIN, Ms Krista BAUMANE**

*In the draft resolution, paragraph 10, replace the second sentence with the following sentence:*

*"According to the latest information from Memorial, there are 478 political prisoners in the Russian Federation, including 113 strictly political prisoners and 365 persons imprisoned on religious grounds."*

#### **Amendment 5**

**Tabled by Mr Boriss CILEVIČS, Ms Krista BAUMANE, Ms Yuliya LOVOCHKINA, Mr Pierre-Alain FRIDEZ, Mr Gerardo GIOVAGNOLI, Mr Mogens JENSEN, Mr Stefan SCHENNACH, Mr George PAPANDEOU**

*In the draft resolution, at the end of paragraph 11, insert the following sentence:*

*"The European Court of Human Rights has recently held that such liquidation, together with the criminal prosecution of individual Jehovah's Witnesses and other measures applied against them under the law on "extremism", disclosed multiple violations of the Convention, including of the right to liberty and security. The Court has also stated that Russia should take all necessary measures to secure the discontinuation of all pending criminal proceedings against Jehovah's Witnesses, and release of all Jehovah's Witnesses who have been deprived of their liberty."*

to put an immediate end to any administrative or judicial harassment of Crimean Tatars. It also recalls its Resolution 2231 (2018), in which it called on the Russian Federation to release without further delay all Ukrainians detained in the Russian Federation and in Crimea on politically motivated or fabricated charges. The repression of Crimean Tatars and Ukrainian citizens following the Russian Federation's illegal annexation of Crimea and its intervention in eastern Ukraine serves as a stark warning of the horrors that await the Ukrainian population.

13. The Assembly confirms its condemnation, in the strongest terms, of the Russian Federation's war of aggression against Ukraine. In this context, it is gravely concerned by the reports of Ukrainian mayors, local representatives, activists, volunteers, journalists, and other civilians who have been abducted or detained by Russian forces during the ongoing war, in areas temporarily under their control. It reiterates its call on the Russian Federation to immediately release all kidnapped mayors and local representatives, activists, volunteers, journalists, and other abducted civilians, and comply strictly with its obligations under international law, including international human rights and international humanitarian law.

14. The Assembly reiterates its condemnation of the measures taken by the Russian authorities since the beginning of the war of aggression against Ukraine to further curtail freedom of expression, freedom of assembly, and freedom of association, through the intensifying crackdown on civil society and independent media, the liquidation of non-governmental organisations and the mass arrests of thousands of peaceful anti-war demonstrators. In this respect, it deplors the adoption of new legislation criminalising the spread of "fake information" about the Russian military with penalties of up to 15 years in prison. This has given rise to numerous new cases of political prisoners, including that of Vladimir Kara-Murza, an opposition politician and historian detained and prosecuted under the new law. It is of particular concern to the Assembly that Mr Kara-Murza was arrested within weeks of testifying before the Committee on Legal Affairs and Human Rights regarding the situation of political prisoners in the Russian Federation. It should also be noted that such legislation

#### **Amendment 1**

**Tabled by Ms Lesia VASYLENKO, Ms Mariia MEZENTSEVA-FEDORENKO, Ms Yevheniia KRAVCHUK, Ms Yelyzaveta YASKO, Ms Boriana ÅBERG, Ms Larysa BILOZIR, Mr Markus WIECHEL**

*In the draft resolution, after paragraph 13, insert the following paragraph:*

*"In this context, the Assembly urges the Russian Federation to fully comply with its obligations under international humanitarian law pertaining to the treatment of prisoners of war, including the defenders of Mariupol. It is appalled by the call of Russian Parliament's Foreign Affairs Committee Chair Leonid Slutsky to reinstate death penalty in the Russian Federation solely for the purpose of executing Ukrainian prisoners of war. It also strongly condemns the arbitrary trials in the temporarily occupied territory of Ukraine whereby 3 Ukrainian Armed Forces soldiers of foreign origin were sentenced to death despite not being mercenaries within the meaning of international humanitarian law. The Assembly exhorts the Russian Federation to take all measures available to comply with international law, revoke the arbitrary sentences, preserve the lives of Ukrainian prisoners of war as well as refrain from provocative political statements and generalizations."*

#### **Amendment 3**

**Tabled by Mr Claude KERN, Ms Yevheniia KRAVCHUK, Ms Larysa BILOZIR, Ms Diana STOICA, Ms Krista BAUMANE, Ms Maria JUFEREVA-SKURATOVSKI, Ms Franziska HOOP, Mr Hubert BÜCHEL, Mr Alin-Gabriel APOSTOL, Mr Iulian BULAI, Ms Reina de BRUIJN-WEZEMAN, Mr Caspar van den BERG, Ms Petra STIENEN, Ms Fiona O'LOUGHLIN, Mr Dara CALLEARY, Ms Lisa Marie Ness KLUNGLAND, Mr Kimmo KILJUNEN, Mr Damien COTTIER, Mr Jacques MAIRE**

*In the draft resolution, paragraph 14, first sentence, replace the words "thousands of" with the following words:*

*"over 16,000".*

only further reinforces the criminal policies of the current Russian leadership against the sovereignty and territorial integrity of Ukraine.

#### **Amendment 4**

**Tabled by Mr Claude KERN, Ms Yevheniia KRAVCHUK, Ms Larysa BILOZIR, Ms Diana STOICA, Ms Krista BAUMANE, Ms Maria JUFEREVA-SKURATOVSKI, Ms Franziska HOOP, Mr Hubert BÜCHEL, Mr Alin-Gabriel APOSTOL, Mr Iulian BULAI, Ms Reina de BRUIJN-WEZEMAN, Mr Caspar van den BERG, Ms Petra STIENEN, Ms Fiona O'LOUGHLIN, Mr Dara CALLEARY, Ms Lisa Marie Ness KLUNGLAND, Mr Mikko KINNUNEN, Mr Damien COTTIER, Mr Jacques MAIRE**

*In the draft resolution, paragraph 14, after the fourth sentence, insert the following sentence:*

*"2,393 administrative cases and 58 criminal cases initiated in less than four months under the newly adopted legislation show the systematic character of persecution against anti-war protesters."*

15. The Assembly stresses that the continuing detention of political prisoners gives rise to violations of the European Convention of Human Rights, to which the Russian Federation is still bound until 16 September 2022, but also to breaches of other international human rights treaties to which Russian is a Party, such as the International Covenant on Civil and Political Rights.
16. Despite the expulsion of the Russian Federation from the Council of Europe, the Assembly should continue to follow the situation of political prisoners in Russian Federation and remind the Russian authorities of their continuing international human rights obligations, including the obligation to implement existing and future judgments of the Court in respect of applicants who satisfy the Assembly's definition of "political prisoner".
17. The Assembly therefore calls on the Russian Federation to:
  - 17.1. implement all judgments of the European Court of Human Rights concerning applicants who meet the definition of political prisoner set out in Resolution 1900 (2012), including by taking individual measures to ensure that the violations of the Convention have ceased and that all negative consequences have been erased, in co-operation with the Committee of Ministers;
  - 17.2. further to the Committee of Ministers' decisions and the interim measure granted by the European Court of Human Rights on 16 February 2021, and in accordance with Resolutions 2375 (2021) and 2423 (2022), release Mr Navalny immediately;
  - 17.3. further to the Committee of Ministers' decisions, ensure the release without further delay of Aleksey Pichugin, who has served more than 18 years' imprisonment following unfair proceedings, and who has been waiting for redress since 2013;

#### **Amendment 6**

**Tabled by Mr Boriss CILEVIČS, Ms Krista BAUMANE, Ms Yuliya LOVOCHKINA, Mr Pierre-Alain FRIDEZ, Mr Gerardo**

**GIOVAGNOLI, Mr Mogens JENSEN, Mr Stefan SCHENNACH, Mr George PAPANDREOU**

*In the draft resolution, after paragraph 17.3, insert the following paragraph:*

*“discontinue all pending criminal proceedings against Jehovah’s Witnesses and release those who have been deprived of their liberty, in accordance with the judgment of the European Court of Human Rights in the case of Taganrog LRO and Others v. Russia, of 7 June 2022;”*

- 17.4. adopt without delay effective general measures to address the structural and systemic problems identified by the European Court of Human Rights and the Committee of Ministers with regard to freedom of assembly, freedom of expression, and the right to liberty, to prevent new violations of the Convention, including by repealing or amending laws that have only exacerbated such problems, including the laws on “foreign agents”, “undesirable organisations”, “extremism” and “fake information on the Russian military”;
- 17.5. re-examine the cases of all persons appearing on the regularly updated lists of political prisoners, including those imprisoned on religious grounds, maintained by the Memorial Human Rights Centre, and release those found to be political prisoners in accordance with the definition set out in Resolution 1900 (2012);
- 17.6. pending their release or re-examination of their cases, ensure full respect of their rights, including by respecting the prohibition on torture and inhuman or degrading treatment or punishment and ensuring the right of access to requisite medical assistance in order that their health and well-being are adequately secured;
- 17.7. co-operate with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), as long as the Russian Federation remains a Party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126), and allow the monitoring of the reported political prisoners’ state of health and conditions of detention, pending their release or re-examination of their cases;
- 17.8. implement relevant recommendations and decisions issued by other international organisations of which the Russian Federation is a member State, such as the United Nations and the Organisation for Security and Co-operation in Europe, as well as by human rights treaty-based bodies which are competent to deal with individual communications against the Russian Federation.
18. The Assembly encourages the High Commissioner for Human Rights in the Russian Federation to follow closely the situation of political prisoners and take action in accordance with her mandate.
19. The Assembly furthermore calls on all member and observer States of the Council of Europe to:

- 19.1. facilitate the grant of visas and give careful consideration to requests for asylum from former political prisoners and Russian opposition politicians, civil society activists, journalists and human rights defenders who need to leave the Russian Federation in order to avoid persecution and/or arrest;
- 19.2. refuse extradition requests for Russian nationals for offences which could be considered politically motivated;
- 19.3. use their “Magnitsky laws” or other legal instruments to impose targeted sanctions against all those who, as police officers, prosecutors, judges, prison officials or other officials, have contributed to the unlawful and arbitrary deprivation of liberty of political prisoners and their ill-treatment in detention;
- 19.4. consider enacting such legislation, if they have not yet done so, in accordance with Resolution 2252 (2019) “Sergei Magnitsky and beyond – fighting impunity by targeted sanctions”.
20. The Assembly invites the European Court of Human Rights to continue examining pending and future cases against the Russian Federation in respect of alleged violations of the Convention committed until 16 September 2022, in particular and as a matter of priority those brought by applicants who are detained or convicted as a direct consequence of a breach of their Convention rights, those raising structural or systemic problems in the Russian legislation and practice with regard to freedom of religion, freedom of expression, freedom of assembly and freedom of association, as well as those lodged by applicants from the illegally occupied territories of Ukraine, Georgia and the Republic of Moldova.
21. The Assembly invites the European Union to further strengthen economic sanctions against the Russian Federation, its leaders and officials, on account of their involvement and responsibility in the persecution of political opponents and the continuing detention of political prisoners, particularly that of Alexei Navalny and Aleksey Pichugin.
22. It calls on Interpol to be particularly vigilant when dealing with requests for Red Notices from the Russian National Central Bureau that may be politically motivated, taking into account Resolution 2315 (2019) “Interpol reform and extradition proceedings: building trust by fighting abuse”.
23. The Assembly calls on member States to commemorate the “International Day of Political Prisoners” for all persons imprisoned for political reasons every year on 30 October.

## B. Draft Recommendation

1. The Parliamentary Assembly refers to its Resolution ... (2022) "Reported cases of political prisoners in the Russian Federation".
2. The Assembly encourages the Committee of Ministers to continue to supervise the execution of judgments against the Russian Federation concerning persons who are still detained as a consequence of violations of their right to freedom of expression, freedom of association or freedom of assembly, or who otherwise fall under the definition of "political prisoner" set out in Resolution 1900 (2012).
3. The Assembly invites the Committee of Ministers to use all the tools at its disposal, including those under Article 46 of the European Convention on Human Rights (ETS No. 5), to ensure full and prompt execution of the cases *Navalnyy and Ofitserov v. Russia*, *Navalnyye v. Russia* and *Pichugin v. Russia*, in particular the immediate release of the applicants concerned.

### **Amendment 2**

**Tabled by Ms Lesia VASYLENKO, Ms Mariia MEZENTSEVA-FEDORENKO, Ms Yevheniia KRAVCHUK, Ms Yelyzaveta YASKO, Ms Boriana ÅBERG, Ms Larysa BILOZIR, Mr Markus WIECHEL**

*In the draft recommendation, after paragraph 3, insert the following paragraph:*

*"The Assembly invites the Committee of Ministers to facilitate the implementation of the resolution by asking member States of the Council of Europe to ensure the composition, publication and communication on a semi-annual basis of the lists of Russian police officers, prosecutors, judges, prison officials and other officials contributing to the unlawful and arbitrary deprivation of liberty of political prisoners and their ill-treatment in detention."*