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(Final version)

Examining the legitimacy and legality of the ad hominem term-limit waiver for the incumbent President of the Russian Federation

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A. Draft Resolution

1. The Parliamentary Assembly stresses the importance of presidential term limits, in particular in countries where the constitution provides for a strong presidency, as opposed to those where parliament is supreme.
 - 1.1. A president together with their political allies usually wields substantial power to nominate allies to high positions in the State, including roles in the court of accounts, electoral bodies, the central bank, the leadership of the armed forces or other security bodies. The checks and balances provided by these bodies may thereby tend to erode over time as these key positions are progressively occupied by the allies of the president. At the same time, dissenting voices gradually disappear from the president's inner circle. Ultimately this has a high cost for the country and for the president, as a range of opinions and a functioning system of checks and balances indubitably contribute to preventing large-scale errors. Presidential term limits therefore ensure that the checks and balances provided by independent institutions do not erode over time.
 - 1.2. Term limits also serve to keep in check those who might be tempted to use their presidential power to curtail any opposition. When they know that their term is finite and wish to live out the rest of their lives in their home country, they have an incentive not to use excessive force against political opponents, for they know that one day one of them may be elected as their successor and they will no longer be able to exercise political power to protect themselves from the consequences of their acts.
 - 1.3. Once a president has taken the path of severe oppression of the opposition and cruelty against his or her own people, he or she risks spending the rest of their life trying to avoid accountability by clinging to office at ever higher cost to their own country, their own people and ultimately themselves.
 - 1.4. For the above and other reasons, the Assembly considers that any country that extends presidential term limits beyond the usual two terms of four or five years is taking a large step away from democracy and the rule of law.
2. The Assembly notes that Vladimir Putin has been continuously in power as President or Prime Minister since 2000 and that the changes made to the Russian Constitution enacted in July 2020 allow him to remain in office as President until 2036, when he will be 83 years

Amendment 1

Tabled by Mr Oleksii GONCHARENKO, Mr Oleksandr MEREZHKO, Mr Serhii SOBOLIEV, Mr Markus WIECHEL, Ms Larysa BILOZIR, Ms Olena MOSHENETS, Mr Emanuelis ZINGERIS

In the draft resolution, after paragraph 1.3, insert the following paragraph:

"Civil society stands as a cornerstone of any democratic nation. When there is a lack of political opposition, it not only undermines the rule of law but also results in a less diverse and enduring democratic environment. This, in turn, causes reduced citizen engagement and fosters indifference to the nation's current affairs, making the population susceptible to state propaganda."

old. The growing brutality of repression against internal opponents and the war of aggression against Ukraine show that the cost of the lack of checks and balances in the Russian Federation is indeed becoming ever higher.

3. The Assembly recalls that the European Commission for Democracy through Law (Venice Commission) in its Interim Opinion of 23 March 2021 found that the ad hominem term-limit waiver for the incumbent President of the Russian Federation violates both Russian constitutional law and international legal principles.
 - 3.1. The relevant constitutional changes were adopted in an ad hoc accelerated procedure not foreseen in the Russian Constitution. The regular constitutional amendment procedure requires the convocation of a Constitutional Assembly and that there shall be specific amending laws on the different changes proposed, rather than a single en bloc vote on all amendments. Instead, a novel ad hoc sui generis procedure was introduced by the Amending Law. Under this procedure, the President requested the Constitutional Court's opinion on the compatibility with the Constitution of the Amending Law, delivered within seven days. Then a single ad hoc "nationwide vote" was held that was not subject to the strict safeguards applicable to referendums.
 - 3.2. The Assembly therefore fully agrees with the conclusion of the Venice Commission that the novel, ad hoc procedure used to amend the Constitution creates an obvious tension with Article 16 of the Constitution which safeguards the "firm fundamentals of the constitutional system of the Russian Federation".
 - 3.3. The Assembly also fully shares the Venice Commission's view that "[a] decision to alter or remove presidential term limits should be subject to thorough public scrutiny, as it has a significant impact on the political system, a country's stability and on confidence in the electoral process. In the long term, a reform of these provisions may affect democratic quality or even democratic endurance. A broad consensus, as well as respect for constitutional and legal procedures, are crucial to maintain strong democracy and confidence in institutions and electoral processes."
 - 3.4. It also agrees with the Venice Commission in that "[t]o the extent that constitutional amendments strengthening or prolonging the power of high offices of state are proposed... such amendments (if enacted) should have effect only for future holders of the office, not for the incumbent."
 - 3.5. The Assembly therefore considers in view of the hasty procedure followed for the adoption of the amendments in question, the en bloc vote on very disparate issues, including protection of social rights, and the fact that the incumbent himself benefits from these changes, that the international standards summed up by the Venice Commission were clearly not met. The abolition of presidential term limits for the benefit of MM. Putin and Medvedev thus violates not only the Russian constitution, but also well-established international legal principles.

4. The overwhelming power of the President resulting from the extremely long term in office combined with the lack of any checks and balances such as a strong parliament, an independent judiciary, free media and a vibrant civil society has turned the Russian Federation into a de facto dictatorship.

Amendment 2

Tabled by Mr Oleksii GONCHARENKO, Mr Serhii SOBOLIEV, Mr Markus WIECHEL, Ms Larysa BILOZIR, Ms Olena MOSHENETS, Mr Emanuelis ZINGERIS, Mr Oleksandr MEREZHKO

In the draft resolution, after paragraph 4, insert the following paragraph:

"These tendencies, with limited response from the international community, set a concerning precedent for countries lacking a robust democratic tradition, as seen in the case of Belarus, where the self-proclaimed president de facto maintains power despite the results of the 2020 elections not being recognised."

5. As the Russian war of aggression against Ukraine and its political and economic consequences show, dictatorships constitute a threat to international peace and security and to the territorial integrity and political independence of their neighbours, within the meaning of Article 2 of the Charter of the United Nations. Dictatorships also destroy the fundamental rights and the social and economic well-being of their own population. It is therefore in the interest first and foremost of the people of the Russian Federation, but also of Europe and the whole world that democracy be restored in the Russian Federation.

Amendment 3

Tabled by Mr Oleksii GONCHARENKO, Mr Oleksandr MEREZHKO, Mr Serhii SOBOLIEV, Mr Markus WIECHEL, Ms Larysa BILOZIR, Ms Olena MOSHENETS, Mr Emanuelis ZINGERIS, Ms Ketevan TURAZASHVILI

In the draft resolution, paragraph 5, after the first sentence, add the following sentence:

"Russia employs acts of aggression against sovereign nations as a strategy to enhance its domestic image, with the Chechen wars of the late 1990s, Russia's influence in the Transnistria region of Moldova, and its aggression against Georgia in 2008 serving as illustrative examples."

Sub-amendment 1 to amendment 3

Tabled by the Committee on Legal Affairs and Human Rights

In amendment 3, after the words "to enhance", replace the word "its" with the following words:

"the President's"

6. The Assembly recalls that all States parties to the Statute of the International Criminal Court are legally bound to arrest Vladimir Putin when he enters their jurisdiction on the basis of the arrest warrant issued by the International Criminal Court on 17 March 2023.

Amendment 4

Tabled by Ms Mariia MEZENTSEVA-FEDORENKO, Ms Olena KHOMENKO, Ms Iryna KONSTANKEVYCH, Mr Oleksii GONCHARENKO, Mr Sergiy VLASENKO, Mr Oleksandr MEREZHKO, Mr Serhii SOBOLIEV, Ms Larysa BILOZIR, Ms Zanda KALNINA-LUKAŠEVICA, Ms Yuliia OVCHYNNYKOVA, Mr Serhii KALCHENKO, Ms Yelyzaveta YASKO, Mr Yuriy KAMELCHUK

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

"The Assembly calls on the member States of the Council of Europe to recognise Vladimir Putin and his government as illegitimate after the end of his current presidential term and to

restrict all contact with them, except for humanitarian contact."

**Sub-amendment 1 to amendment 4
Tabled by the Committee on Legal Affairs
and Human Rights**

In amendment 4, replace the words "and his government as illegitimate after the end of his current presidential term and to restrict all contact with them, except for humanitarian contact" with the following words:

"as illegitimate after the end of his current presidential term and to cease all contact with him, except for humanitarian contact and in the pursuit of peace"

7. The Assembly finally reiterates its strong support for the creation of an ad hoc international criminal tribunal for the crime of aggression, which is needed in order to hold to account the Russian leadership, including Vladimir Putin, for the original crime enabling all other war crimes and crimes against humanity, namely the launch of the war of aggression against Ukraine.
8. The Assembly considers that the ad hoc international criminal tribunal should investigate all events on the territory of Ukraine from February 2014, starting with the illegal annexation of Crimea, the war in the Donbas region and the downing of flight MH17.