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(Final version)

Support for the reconstruction of Ukraine

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

A. Draft Resolution

1. The Parliamentary Assembly reiterates its deep concern at the extensive devastation and acute suffering inflicted upon Ukraine and its people by the Russian Federation with its illegal war of aggression which started in 2014, and escalated into a large-scale invasion in February 2022, resulting in severe human and material losses, grave violations of human rights, and numerous war crimes.
2. The Council of Europe has led the way in expressing its solidarity with Ukraine and its people, condemning the Russian Federation's war of aggression against Ukraine, and excluding the Russian Federation from its membership because of its serious violation of international law and statutory obligations. The Council of Europe has also shown leadership in setting up the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, as a first step towards establishing a comprehensive system of accountability of the Russian Federation for its wrongful acts. Consistent with its steadfast resolve and its focus on democracy, human rights, and the rule of law, the Council of Europe should play a significant role in supporting the reconstruction efforts in Ukraine, by recommending the seizure of Russian State assets and their use in support of the reconstruction of Ukraine. This course of action would pursue a threefold objective: strengthening Ukraine; ensuring the accountability of the Russian Federation; and deterring against any other future aggression.
3. The Assembly believes that it is crucial for the international community, working in concert, to address this challenge and ensure that the victims of the aggression, Ukraine and its citizens, receive the reparations they are owed, and that there is a path towards justice. As already called for by the Assembly in its Resolution 2516 (2023) "Ensuring a just peace in Ukraine and lasting security in Europe", this shall involve establishing "a comprehensive compensation mechanism, including an international commission for the examination of claims for damages recorded in the Register of Damage, and a compensation fund to pay out on decisions on compensation for damage awarded by the commission, in particular by confiscating and otherwise using the Russian Federation's assets to pay for damage caused by the war in Ukraine".
4. The documented damages to Ukraine's infrastructure and economy caused by the Russian Federation's aggression had reached US\$416 billion in June 2023. The plight of those who have had to flee Ukraine because of the war – an estimated 6.2 million people – is particularly concerning, as a humanitarian emergency in itself and also because it creates a ripple effect across borders, impacting neighbouring countries and straining resources on a larger scale. In addition, it has been estimated that approximately 17.6 million individuals in Ukraine needed humanitarian assistance in 2023, with 5.1 million people being internally displaced.

5. The Assembly acknowledges that the non-participation by the Russian Federation in international dispute settlements hinders the traditional legal channels for securing reparations. It affirms, however, the obligation of the aggressor State, the Russian Federation, to provide full compensation for the damage, loss, and injury caused by its internationally wrongful acts, including the destruction of infrastructure, loss of life, economic hardships, and other adverse effects, in accordance with the principles of international law. In this respect, the Assembly recalls the 2001 Articles on Responsibility of States for Internationally Wrongful Acts, the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and the United Nations General Assembly Resolution A/RES/ES-11/5 of 14 November 2022 "Furtherance of remedy and reparation for aggression against Ukraine", which recognises the need for the establishment of an international mechanism for reparation.
6. The Assembly notes that several countries holding Russian sovereign assets have frozen approximately US \$300 billion in Russian State assets. The frozen Russian State financial assets must be made available for the reconstruction of Ukraine. States holding these assets should co-operate and transfer them to an international compensation mechanism. Under international law, States possess the authority to enact countermeasures against a State that has seriously breached international law. Now is the time for Council of Europe member States to move from sanctions to countermeasures. The Assembly further notes that countermeasures are intended to induce the offending State to cease its unlawful behaviour or to comply with its obligations arising from that conduct, such as paying compensation for damages caused. The Assembly emphasises that the legitimacy of the recommended countermeasures remains unassailable within the framework of sovereign immunity.

Amendment 9

Tabled by Mr Oleksii GONCHARENKO, Ms Yevheniia KRAVCHUK, Mr Markus WIECHEL, Mr Marcin ROMANOWSKI, Ms Larysa BILOZIR

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

"The Assembly acknowledges the longstanding influence of certain Russian individuals, also referred to as oligarchs, in both domestic and international politics, shaped by their control over key industries and substantial assets abroad. This enabled them to influence various stakeholders in the European countries. Since the beginning of the Russian aggression against Ukraine in 2014, a number of enterprises owned by such individuals have been co-operating with the Russian military-industrial complex. Given this fact, the European Union, G7 countries and Australia introduced the "Russian Elites, Proxies & Oligarchs Task Force" in March 2022. The Assembly believes that the member States have to work on a similar mechanism to be able to address this issue."

Amendment 10

Tabled by Mr Oleksii GONCHARENKO, Ms Yevheniia KRAVCHUK, Mr Markus WIECHEL, Mr Marcin ROMANOWSKI, Ms Larysa BILOZIR

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

The Assembly recognises the endeavours of the member States in imposing sanctions on Russian individuals and enterprises who collaborate with the Russian military-industrial complex, particularly those in heavy industries that facilitate the production of various types of lethal weaponry. The Assembly believes that the

7. The Assembly believes that creating, under the auspices of the Council of Europe, an international compensation fund as well as a compensation mechanism, as a separate international instrument mandated to examine and adjudicate claims and/or pay compensation for damage, loss or injury caused by the Russian Federation's internationally wrongful acts in or against Ukraine, would provide a structured way to assess and compensate for the damages suffered by various stakeholders because of Russian Federation's illegal invasion of Ukraine. This compensation mechanism should cover a range of losses, including but not limited to infrastructure damage, environmental impacts, economic losses incurred by companies and investors, and the costs associated with hosting and supporting those who have been displaced by the aggression, in Ukraine and outside.

8. As the already established Register of Damage undertakes the laborious process of recording Ukrainian losses in preparation for an international claims process, countries that have frozen Russian assets should transfer those assets to an international compensation fund. An international commission for the examination of claims for the damages recorded in the register should be created to effectively address the claims process.

9. In light of these considerations, the Assembly:

- 9.1. calls for the establishment of an international compensation mechanism under the auspices of the Council of Europe to comprehensively address the damages incurred by natural and legal persons affected, including the State of Ukraine, due to the unlawful actions of the Russian Federation with its invasion of Ukraine;

- 9.2. urges Council of Europe member and non-member States holding Russian State assets to actively co-operate in the prompt transfer of these assets to the established international compensation mechanism, supports the

member States should devise mechanisms for monitoring potential violations of the sanction regime, freezing such assets, and subsequently transferring them to the international fund for the reconstruction of Ukraine, all while upholding the principles of international law and respecting private property rights.

Amendment 8

Tabled by Mr Oleksii GONCHARENKO, Ms Yevheniia KRAVCHUK, Mr Markus WIECHEL, Mr Marcin ROMANOWSKI, Ms Larysa BILOZIR

In the draft resolution, after paragraph 7, insert the following paragraph:

"The Assembly acknowledges that Russian politicians, propagandists, oligarchs and other war collaborators have amassed significant wealth through their close ties to the Putin regime, and have been trying to influence the internal politics of the European countries, which makes them accomplices in Russia's aggression against Ukraine. To ensure the personal liability of a particular individual, measures such as freezing and confiscating the assets and their allocation to the reconstruction of Ukraine should be applied. Bearing in mind that certain countries have already introduced new legislation or amended the existing one, and in adherence to principles of private property and international law, the member States are encouraged to develop legislation and legal mechanisms to confiscate these assets."

Amendment 1

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, before paragraph 9.1, insert the following paragraph:

"calls on Council of Europe member States and eligible non-member States to join the Register of Damage if they have not yet done so;"

efforts of the European Union and the United States and calls upon them and the G7 to act without delay in taking all necessary steps to ensure that all Russian Federation assets in their custody are made available for the recovery and reconstruction of Ukraine;

- 9.3. calls for the creation of an international trust fund, where all Russian State assets held by Council of Europe member and non-member States will be deposited, ensuring transparency, accountability, and equity in the disbursement of funds that should be used for compensation to Ukraine and natural and legal persons affected by the Russian aggression in Ukraine;

- 9.4. calls for the establishment of an impartial and effective international claims commission, operating under recognised judicial norms, to adjudicate claims presented by Ukraine and affected entities seeking reparation for damages caused by the Russian Federation's aggression;

- 9.5. stresses the utmost importance of adhering to established international legal standards and principles in the transfer and management of frozen Russian assets, ensuring fairness and proportionality, and safeguarding the rights of all affected parties;

- 9.6. supports the recourse to countermeasures, as outlined within the framework of international law, to induce compliance by the Russian Federation with its international legal obligations and responsibilities;

- 9.7. invites States concerned about breaches of erga omnes obligations to actively participate in the compensation mechanism, contributing to efforts aimed at halting breaches and ensuring just reparations for affected natural and legal persons, as well as the State of Ukraine;

- 9.8. encourages collaborative efforts among member States, international organisations, and all relevant stakeholders to expedite the process of reconstruction and to ensure comprehensive compensation for the multifaceted damages caused by the war of aggression of the Russian Federation;

Amendment 7

Tabled by Mr Oleksii GONCHARENKO, Ms Yevheniia KRAVCHUK, Mr Markus WIECHEL, Mr Marcin ROMANOWSKI, Ms Larysa BILOZIR

In the draft resolution, paragraph 9.3, replace the words "calls for the creation of an international trust fund", with the following words:

"urges that the reconstruction of Ukraine is needed right away without waiting for the end of the aggression, therefore calling for the creation of an international trust fund with a clear deadline for the implementation of this mechanism"

Amendment 2

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 9.4, replace the words "and affected entities" with the following words:

"affected entities, as well as natural and legal persons"

Amendment 3

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, at the end of paragraph 9.5, insert the following words:

",as guaranteed by the European Convention on Human Rights (ETS No. 5) and/or other international human rights law instruments;"

Amendment 4

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, at the end of paragraph 9.8, insert the following words:

", including by considering other complementary or alternative proposals such as the confiscation

of private assets following a criminal conviction for sanctions violations, introducing windfall taxes on the interest or profits derived from frozen Russian State assets, or using these assets as collateral for loans to Ukraine;"

Amendment 6

Tabled by Mr Oleksii GONCHARENKO, Ms Yevheniia KRAVCHUK, Mr Markus WIECHEL, Mr Marcin ROMANOWSKI, Ms Larysa BILOZIR

In the draft resolution, after paragraph 9.8, insert the following paragraph:

"calls on member States, international organisations and all relevant stakeholders to continue working on expanding the list of the sanctioned individuals and companies who are directly or indirectly affiliated with the Russian defence industry, particularly in metallurgical and other types of heavy industry and those who are contributing to the development of Russian military-industrial complex."

- 9.9. calls for a unified and resolute front against aggression, emphasising the shared responsibility of the international community in upholding global norms, preventing violations of international law, and promoting lasting peace and stability.

B. Draft Recommendation

1. The Parliamentary Assembly draws the Committee of Ministers' attention to its Resolution... (2024) "Support for the reconstruction of Ukraine" which makes a resolute call for using confiscated Russian State assets to compensate damages, injury and losses caused by the aggression of the Russian Federation and for supporting the reconstruction of Ukraine.
2. The Assembly refers to its Resolution 2516 (2023) "Ensuring a just peace in Ukraine and lasting security in Europe", which called for establishing "a comprehensive compensation mechanism, including an international commission for the examination of claims for damages recorded in the Register of Damage, and a compensation fund to pay out on decisions on compensation for damage awarded by the commission, in particular by confiscating and otherwise using the Russian Federation's assets to pay for damage caused by the war in Ukraine". It also refers to its Resolution 2482 (2023) "Legal and human rights aspects of the Russian Federation's aggression against Ukraine", which called on Council of Europe member States to set up an international compensation mechanism; highlighted the reasons why the Council of Europe should have a leading role in setting up and managing it; and detailed some of its key prospective features.
3. The Assembly recalls the decisions of the Committee of Ministers of 15 September 2022 and 24 February 2023 to welcome all efforts to secure full reparations for the damages caused by violations by the Russian Federation of international law in Ukraine. It also underscores that, in its Resolution CM/Res(2023)3 establishing the Enlarged Partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine, adopted on 12 May 2023, the Committee of Ministers agreed "to continue working, in co-operation with Ukraine and relevant international organisations and bodies, towards the establishment by a separate international instrument of a future international compensation mechanism, which may include a claims commission and a compensation fund, of which the work of the Register, including its digital platform with all data about claims and evidence recorded therein is intended to constitute an integral part".
4. In light of the above, the Assembly calls on the Committee of Ministers to:
 - 4.1. proceed towards the establishment of an international compensation mechanism, under the auspices of the Council of Europe, to comprehensively address the damages incurred by natural and legal persons concerned, as well as the State of Ukraine due to the unlawful actions of the Russian Federation in its invasion of Ukraine;
 - 4.2. establish an international trust fund, where all seized Russian State assets will be deposited, ensuring transparency, accountability, and equity in the disbursement of funds that should be used for

compensation to Ukraine and natural or legal persons affected by the Russian aggression in Ukraine as well as to aid Ukraine's recovery and reconstruction efforts;

- 4.3. endorse the establishment of an international commission of claims for the damages recorded in the Register, under the auspices of the Council of Europe.

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

In the draft recommendation, after paragraph 4.3, insert the following paragraph:

"consider including, in the scope of the future international compensation mechanism, once established, the damage caused by the Russian Federation's internationally wrongful acts committed in the Autonomous Republic of Crimea, the city of Sevastopol and the temporarily occupied territories of the Donetsk and Luhansk oblasts before 24 February 2022, in so far as they were caused by the aggression against Ukraine started in 2014, in particular in relation to breaches of international law confirmed by international adjudicative bodies such as the European Court of Human Rights."