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(Final version)

Countering the erasure of cultural identity in war and peace

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A. Draft Resolution

1. Following the occupation of Crimea and parts of the Donbas region of eastern Ukraine by the Russian Federation in 2014 and its full-scale invasion of Ukraine in February 2022, conventional military targeting has been accompanied by a systematic, state-driven policy of Russification of the occupied areas, historical imperialistic and neo-colonial revisionism, and denial of a distinct cultural Ukrainian identity to those under occupation. This denial is based in particular on putting into question the existence of the Ukrainian language, culture and history, and on a portrayal of Ukraine and Ukrainians as a lower cast, ethnicity and race. It is carried out through: removal of archives; confiscation or replacement of history textbooks; indoctrination, including through militarisation of education; impeded access to education in native, including indigenous, languages; de-contextualisation of artefacts through relocation or changing narratives around them; narrowing the diversity of commemorative practices; looting; destruction of cultural objects and heritage sites; intentional refusals to preserve cultural heritage in order to showcase certain layers of history and erode others; distortive and ethnically-biased restoration of cultural objects; and neo-imperial renaming of geographical sites.
2. For its part, the Belarusian Government has been implementing a consistent policy of Russification since 1994. This policy has taken on a clearly punitive character since 2020, when peaceful mass protests took place against the disputed results of the presidential election. Censorship is implemented through blacklists of politically undesirable writers, artists, photographers, actors, musicians, tour guides and museum workers. More than 200 non-governmental organisations related to the cultural sphere of Belarus have been forced to cease their activities and close.

Amendment 1

(If adopted, amendment 2 falls)

Tabled by Ms Mariia MEZENTSEVA-FEDORENKO, Mr Serhii SOBOLIEV, Mr Arminas LYDEKA, Mr Yuriy KAMELCHUK, Mr Oleksii GONCHARENKO, Mr Rostyslav TISTYK, Ms Lesia VASYLENKO, Mr Lukas SAVICKAS, Ms Olena MOSHENETS, Mr Serhii KALCHENKO, Ms Yuliia OVCHYNNYKOVA, Ms Yelyzaveta YASKO

In the draft resolution, after paragraph 2, insert the following paragraph:

"At the same time, the Russian Federation applies imperialist and colonial policies on its own territory towards numerous indigenous peoples, erasing their cultural identities by Russification, restricting the use of their languages, reducing the domains of use of their national cultures, distorting their history and replacing it with an imperial version of history, denying their historical agency and depriving them of historical memory, by declaring that the Russian Federation is equivalent to Russia and that all indigenous peoples are Russians, and by prosecuting and capturing their national activists."

Sub-amendment 1 to amendment 1

Tabled by Ms Mariia MEZENTSEVA-FEDORENKO, Mr Oleksii GONCHARENKO, Mr Eerik-Niiles KROSS, Mr Rostyslav TISTYK, Mr Yuriy KAMELCHUK, Ms Larysa BILOZIR, Ms Olena MOSHENETS, Ms Lesia

**VASYLENKO, Ms Liisa-Ly PAKOSTA, Mr
Christophe BRICO**

In amendment 1, delete the following words:

*"that the Russian Federation is equivalent to
Russia and"*

Amendment 2

(Falls if amendment 1 is adopted)

**Tabled by Ms Mariia MEZENTSEVA-
FEDORENKO, Mr Serhii SOBOLEEV, Ms Yuliia
OVCHYNNYKOVA, Mr Eerik-Niiles KROSS,
Ms Olena MOSHENETS, Mr Arminas LYDEKA,
Ms Wanda NOWICKA**

*In the draft resolution, after paragraph 2, insert
the following paragraph:*

*"Furthermore, the Russian Federation pursues a
Russification policy towards numerous
indigenous peoples in the country, progressively
erasing their cultural identities by restricting the
use of their languages, especially in the
education system, reducing the domains of their
cultural expressions, distorting their history and
depriving them of their historical memory, as well
as by capturing and prosecuting ethnic minority
activists."*

3. The Parliamentary Assembly holds that the Russian Federation is using cultural cleansing as a weapon of war within its broader campaign of extreme violence, in order to deny the existence of a different cultural identity and erase its historical roots, values, heritage, literature, traditions and language. Such cultural erasure, and the deliberate and systematic destruction or looting of cultural property, amount to war crimes and crimes against humanity, and also reveal, together with the official rhetoric of the Russian Federation to justify its war of aggression, a specific genocidal intent to destroy the Ukrainian national group or at least part of it, notably through the destruction of Ukrainian identity and culture. It is part of the campaign of genocide being pursued by the Russian Federation against the Ukrainian people in blatant violation of treaty and customary international law.
4. The Assembly recalls that the right of access to culture and enjoyment of one's own cultural heritage forms part of international human rights law. It strongly condemns the deliberate destruction of cultural heritage occurring today in Ukraine. According to the Ukrainian Ministry of Culture and Information Policy, 1 062 cultural heritage sites have been either destroyed or damaged during the aggression. This unnecessary, unjustified and arbitrary military destruction of cultural heritage is not just an assault on built fabric, but also on what it means for the Ukrainian people and for their well-defined historical European cultural identity, in accordance with the principles of the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199, "Faro Convention").

5. A legal response to these threats to cultural heritage, destruction of collective and individual identity and affront to human dignity can be found in an effective implementation of relevant treaty and customary international law, including the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) and the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) and their respective Protocols, and human rights instruments governing the enjoyment of cultural rights and expression of cultural identities. However, the international legal framework concerning cultural heritage in armed conflict remains fragmented and has significant gaps, particularly in relation to new types of warfare and to the safeguarding of cultural heritage after conflicts. The return of cultural heritage and restoration of damaged heritage objects are also matters of concern. In addition, loopholes in international law and differences in the way different legal orders recognise and implement the principle of universal jurisdiction over international crimes make it difficult to bring perpetrators to justice before international or national courts. This further leads to difficulties in providing full reparations for destroyed, looted and irreversibly damaged objects of cultural property, and in many instances restitution for such losses or the return of objects remains a difficult challenge. Practical steps are needed to remove these obstacles to judicial remedies.
6. While the Ukrainian situation and the tragic disrespect of Ukrainian cultural heritage and identity by the Russian Federation are an extreme example of this form of barbarianism and call for specific responses, the Assembly is also deeply concerned by the frequent severe threats to both tangible and intangible cultural heritage and to cultural identities of populations, faced in other contexts and locations and triggered by war or by tensions among communities in post-war periods.
7. Recalling its Resolution 2057 (2015) "Cultural heritage in crisis and post-crisis situations", the Assembly emphasises that corrosive and coercive policies of cultural erasure require in response a holistic policy action across the fields of culture, education, heritage management, mass media, criminal accountability, reparations, remembrance, transitional justice and reconciliation. Remedial action is necessary but there is also a need to work more on prevention as a way to put an end to the ongoing destructive acts against cultural heritage. A human rights approach, with a key role for education, should be embedded in this holistic strategy. Local populations should be involved in this sensitive policy making, since local knowledge, attention to local perspectives and community participation are crucial in countering the erasure of cultural identity, restoring cultural heritage and objects as part of the collective memory, and promoting cultural resilience during and after the war.
8. On this basis, the Assembly recommends that member States of the Council of Europe:
 - 8.1. sign and ratify the Council of Europe Framework Convention on the Value of Cultural Heritage for Society ("Faro Convention", 2005, CETS No. 199) and the Council

of Europe Convention on Offences relating to Cultural Property ("Nicosia Convention", 2017, CETS No. 221), if they have not yet done so;

- 8.2. co-operate with the United Nations, the European Union and other relevant organisations, to undertake a review of the Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict (1954) and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949) and their protocols, in particular to:
 - 8.2.1. establish more robust pre-emptive protective mechanisms for both tangible and intangible cultural heritage of all groups and communities, in times of war and in post-conflict situations;
 - 8.2.2. reinforce sanctions for arbitrary military destruction which is not justified by an "imperative military necessity", an exception which should be subject to strict interpretation and be convincingly proved by the perpetrators;
 - 8.2.3. expand their regulatory scope to address less obvious violations against cultural heritage such as cultural cleansing and cultural erasure;
 - 8.2.4. provide for full reparations, based on international law on State responsibility, in particular through restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition of damages to and destruction of tangible and intangible heritage
- 8.3. strengthen their domestic legal frameworks to prosecute war crimes, crimes against humanity, genocide, the crime of aggression and serious human rights violations and, in particular:
 - 8.3.1. review their legislation to enable swift and effective universal jurisdiction over all international crimes;
 - 8.3.2. strengthen existing domestic war crimes units or establish such units, and ensure that they have designated teams specialised in cultural heritage crimes;
 - 8.3.3. ensure that cultural erasure, deliberate, indiscriminate and systematic destruction of cultural heritage, looting and unlawful transfer of cultural property are effectively prosecuted as war crimes, crimes against humanity, or human rights violations, holding perpetrators and their military and political commanders accountable before national courts;
 - 8.3.4. provide training on heritage crimes for criminal investigators, prosecutors and specialists who collect evidence;
 - 8.3.5. consider not only action aimed at a criminal justice response to illegal acts against cultural heritage and identity, but also more holistic approaches aimed at ensuring full effective reparations, including collective reparations aimed at communities and victim groups, as provided for in international law;
- 8.4. reinforce their ability to combat illegal trafficking of cultural property and abusive expropriation of artefacts and, in particular:

- 8.4.1. provide for deterrent sanctions against all those who operate or facilitate the illicit transfer or trade of artefacts, conduct or organise illegal excavations, or use artefacts for their own purposes (exhibitions, auctions, academic publications), and ensure that the authorities and complicit public institutions (cultural, academic or others) of the States responsible for these acts, are also held accountable;
- 8.4.2. develop training for military personnel, police, custom officers and criminal justice professionals, especially within domestic war crimes units, to facilitate the prevention, investigation and prosecution of violations affecting cultural heritage;
- 8.4.3. raise awareness in the art market of the ICOM (International Council of Museums) Red Lists of Cultural Objects at Risk, and of the specific ICOM Emergency Red List of Cultural Objects at Risk for Ukraine;
- 8.5. use their political leverage at international level and develop co-operation in particular with the Committee of Ministers and the Congress of Local and Regional Authorities of the Council of Europe and with relevant international organisations, human rights groups and cultural institutions, with an aim to:
 - 8.5.1. promote human rights and peace education, and multi-perspectivity in history teaching, which should provide learners with the keys of mutual understanding and recognition, foster pluralism and overcome denials that fuel hatred;
 - 8.5.2. promote effective protection of endangered cultural identities, cultural heritage and cultural rights,
 - 8.5.3. organise international events on the preservation and restoration of cultural heritage sites damaged or threatened as a consequence of an armed conflict;
 - 8.5.4. raise awareness of how propaganda and imperial and neo-imperial practices, notably the ideology of the "Russian World" ("Russkiy mir"), can lay out the basis for violations of international law, including those against cultural heritage;
 - 8.5.5. raise awareness of the Russian Federation targeted indoctrination and militarisation of Ukrainian children in occupied territories.
- 9. The Assembly urges member States to mutualise resources and co-ordinate their efforts, to provide Ukraine with the support it may need to implement a holistic strategy in response to the Russian Federation's coercive policies aimed at erasing cultural identity, including the following actions in relation to:
 - 9.1. remedial strategies,
 - 9.1.1. gather, record, document and preserve evidence of crimes committed by the Russian Federation against tangible and intangible cultural heritage in Ukraine, also with a view to assessing damages and seeking reparations;
 - 9.1.2. assist in digitalising objects of cultural heritage and property, in order to transform and store them in digital

formats on various on-line platforms and databases, permitting public unimpeded access to these;

- 9.1.3. build institutional capacity to ensure the best use of funding provided by outside agencies and donors, enhance heritage management, and carry out sound reconstruction processes;
- 9.1.4. develop adaptation programmes for Ukrainian child victims of deportation to the Russian Federation or of cultural cleansing policies in territories under Russian control, carefully considering their age, gender, regional background and the duration and level of indoctrination which they have been subjected to;
- 9.1.5. develop transitional justice, with due consideration for truth seeking, reparation and guarantees of non-repetition;
- 9.2. post-conflict reconstruction, recovery and peace building:
 - 9.2.1. develop specific projects for cultural heritage, support for cultural vitality and cultural exchanges by providing support and resources for artists, writers, musicians, and other cultural professionals and funding initiatives, grants, and residency programmes;
 - 9.2.2. develop remembrance, reconciliation and educational policies that encourage democratic citizenship and civic engagement;
 - 9.2.3. raise awareness among local populations of the importance of cultural heritage and cultural rights, create spaces of dialogue with them and associate them properly in policy implementation.

B. Draft Recommendation

1. The Parliamentary Assembly refers to its Resolution ... (2024) "Countering the erasure of cultural identity in war and peace" and underlines that the right to take part in cultural life and the right of access to and enjoyment of both tangible and intangible cultural heritage, are pivotal to the system of human rights and fundamental to individual and collective cultural identity.
2. The Assembly welcomes the decision to establish the Enlarged Partial Agreement on the Register of Damage caused by the aggression of the Russian Federation against Ukraine as a first step towards an international compensation mechanism. Within this framework, it is crucial to accurately record damages to cultural heritage and cultural infrastructure in Ukraine and to establish comprehensive lists of looted objects and artefacts that were taken from museums and archaeological sites, including from Crimea since 2014. The Assembly urges members States parties to the Enlarged Partial Agreement to take adequate measures in this respect.
3. The Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction" (2023-2026) provides the necessary framework to accompany the process of reconstruction and recovery in Ukraine. The Assembly calls on the Committee of Ministers to consider in this context the proposals for action to counter the erasure of cultural identity that are outlined in its Resolution ... (2024), and to integrate in the Action Plan targeted actions in the area of education, promotion of democratic culture, history education and support for cultural heritage, vitality and exchanges.
4. Referring to the commitment enshrined in the Reykjavik Declaration to strengthen co-operation with Belarusian human rights defenders, democratic forces, free media and independent civil society, the Assembly underlines the importance of developing projects to assist the diaspora from Belarus to preserve their identity and language through projects supporting cultural vitality and cultural exchange. It asks that the Committee of Ministers secure appropriate resources to this aim either through the ordinary budget or via targeted extra-budgetary contributions.
5. Finally, the Assembly considers that the international legal framework concerning the protection of cultural heritage in armed conflict should be enhanced. In this respect, the Assembly recommends that the Committee of Ministers initiates a collaborative process with the United Nations, the European Union and other relevant organisations, to develop legal and policy responses to new forms of cultural erasure, taking into account existing Council of Europe conventions and other international treaties, seeking in particular to:
 - 5.1. enhance and consolidate the recognition of cultural cleansing or erasure, deliberate or systematic destruction of cultural heritage and looting of cultural property as human rights violations, crimes against humanity and/or war crimes for the purposes of their prosecution and

counteracting such illegal acts, and to determine the role that a policy of cultural erasure has as one of the inherent elements of the intent to destroy a national or any other protected group when committing genocide;

- 5.2. establish more robust pre-emptive protective mechanisms for both tangible and intangible cultural heritage;
- 5.3. provide for deterring sanctions and reparations for military destruction which is not demonstrated to be justified by an “imperative military necessity”, and for other violations against cultural heritage.