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Reconsideration on substantive grounds of the previously ratified credentials of the Russian delegation

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Rapporteur: Mr Stefan SCHENNACH, Austria, Socialist Group

Summary

The Monitoring Committee considers that the actions of the Russian Federation leading up to the annexation of Crimea, and in particular the military occupation of Ukrainian territory and the threat of the use of military force, the recognition of the results of the so-called referendum as well as the subsequent annexation of Crimea, all constitute violations of international law and remain in clear contradiction with the Statute of the Council of Europe, in particular its Preamble, and the obligations resulting from Article 3, as well as with the commitments undertaken by the Russian Federation upon accession, contained in [Opinion 193 \(1996\)](#).

In order to mark its condemnation and disapproval of the Russian Federation's actions with regard to Ukraine, but at the same time allowing for political dialogue, the Monitoring Committee proposes that the Assembly resolves to confirm the ratification of the credentials of the delegation of the Russian Federation, whilst suspending its voting rights until the end of 2014 session, in accordance with Article 9.4.c of the Rules of Procedure.

1. Reference to committee: [Doc. 13457](#) and [13459 corr](#), Reference 4038 of 7 April 2014.



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A. Draft resolution²

1. On 21 March 2014, two motions for a resolution with regard to the previously ratified credentials of the Russian Federation were submitted to the Parliamentary Assembly. The first one, signed by 74 members, called for the reconsideration, on the basis of Rule 9.1.a of the Rules of Procedure of the Assembly, of the ratified credentials of the Russian delegation on substantive grounds ([Doc. 13457](#)). Condemning “without reservation the violation of the territorial integrity and sovereignty of Ukraine by the armed forces of the Russian Federation in early March 2014”, and expressing their “gravest concern that members of the Upper House of the Russian Parliament unanimously authorised such action in advance”, the signatories expressed their conviction that there had been a “serious violation of the basic principles of the Council of Europe mentioned in Article 3 of, and the preamble to, the Statute”.
2. The second motion on the suspension of the voting rights of the Russian delegation (Rule 9 of the Rules of Procedure of the Assembly) ([Doc. 13459 corr.](#)) was signed by 53 members. In particular, the signatories expressed their serious concern about “the persistent failure by the Russian Federation to honour its obligations and commitments” as demonstrated by the “actions of Russian military forces in the Crimean peninsula, as well as explicit threats of military actions in the rest of Ukraine’s territory”. Furthermore, they stressed that “the use of armed forces on the territory of Ukraine was authorised by the Federation Council of Russia on 1 March 2014”.
3. The Assembly considers that the actions of the Russian Federation leading up to the annexation of Crimea, and in particular the military occupation of the Ukrainian territory and the threat of the use of military force, the recognition of the results of the illegal so-called referendum and subsequent annexation of Crimea into the Russian Federation constitute, beyond any doubt, a violation of international law, including of the United Nations Charter and the Organization for Security and Co-operation in Europe (OSCE) Helsinki Final Act. The launch of military action by Russia was in violation of a memorandum signed between Russia, the United States and the United Kingdom, and Ukraine, Belarus and Kazakhstan in 1994, which undermines the trust in other international instruments, in particular the agreements on disarmament and on non-proliferation of nuclear weapons.
4. These actions are also in clear contradiction with the Statute of the Council of Europe, in particular its Preamble, and the obligations resulting from Article 3, as well as with the commitments undertaken by the Russian Federation upon accession and contained in Assembly [Opinion 193 \(1996\)](#).
5. The Assembly regrets that the Russian Federation has persistently rejected the diplomatic efforts of the international community aimed at the de-escalation of the situation, by turning down proposals for international mediation and the establishment of an international observer mission in Crimea, by refusing to enter into direct dialogue with the authorities of Ukraine, and by choosing not to avail itself of international mechanisms, including those available in the Council of Europe, to peacefully resolve the conflict.
6. The Assembly believes that by violating the sovereignty and territorial integrity of Ukraine, Russia has created a threat to stability and peace in Europe. The annexation of Crimea and the steps leading to it, have set a pattern which is now being followed by other parts of Ukraine, as demonstrated by the developments in Donetsk, Kharkiv and Lugansk over the last 48 hours.
7. The Assembly is particularly concerned by the position taken by the members of both Chambers of the Russian Parliament at different stages of the process of annexation, including the unanimous vote in the Council of the Federation authorising the use of military force in Crimea, the approval of constitutional amendments allowing for the annexation of Crimea and the ratification of the illegal treaty on unification.
8. The Assembly regrets that reports of alleged violations against the Russian-speaking minority and accusations about the extreme-right nature of the authorities in Kyiv have been used for political purposes by many top officials and members of parliament in the Russian Federation in their public statements.
9. The Assembly is deeply concerned by the state of media freedom and freedom of expression in Russia, and in particular by the biased coverage of the events in Ukraine, and even manipulations which have largely contributed to the inter-ethnic instability in the country, as well as by suppression of the public debate and any criticism. The crackdown on the independent media, including online media and journalists is most worrying.
10. The present situation of minorities in Crimea, in particular of Crimean Tatars and Ukrainians, raises the utmost concern. The Assembly urges Russia, which is in illegal control of this territory, to ensure that their rights are not violated.

2. Draft resolution adopted by the committee on 8 April 2014.

11. The Assembly expresses its anxiety with regard to the intentions of the Russian authorities in the light of the steady and noticeable build-up of Russian military forces along its border with Ukraine. Furthermore, it voices its concern about public statements made by Russian officials with respect to the situation of Russian minorities in a number of Council of Europe member States, which, in the present context, raise comprehensible fears in the countries concerned.

12. The Assembly strongly condemns the violation of Ukrainian sovereignty and territorial integrity by the Russian Federation, and considers that such a flagrant violation by a Council of Europe member State of its obligations and commitments requires a strong signal of disapproval.

13. However, the Assembly believes that political dialogue should remain the most privileged way to find compromise, and there should be no return to the pattern of the Cold War. Suspension of the credentials of the Russian Delegation would make such a dialogue impossible, while the Assembly constitutes a good platform for keeping the Russian delegation accountable on the basis of Council of Europe's values and principles. The Parliamentary Assembly has the power and the possibility in this veritable crisis to confront face-to-face one of its member States – the Russian Federation – with questions and facts and to demand answers and accountability

14. Accordingly, in order to mark its condemnation and disapproval of the Russian Federation's actions with regard to Ukraine, the Assembly resolves to confirm the ratification of the credentials of the Russian delegation whilst suspending its voting rights until the end of the 2014 session.

15. The Assembly invites the Bureau to consider setting up an investigative committee tasked with examining and following the developments relating to the conflict since August 2013 and to report back to the Assembly in January 2015.

B. Explanatory memorandum by Mr Schennach, rapporteur

1. Introduction

1. On 21 March 2014, two motions for a resolution with regard to the credentials of the Russian delegation were tabled. The first one ([Doc. 13457](#)), signed by 74 members, requested the Parliamentary Assembly to reconsider, on the basis of Rule 9.1.a of the Rules of Procedure of the Assembly, the ratified credentials of the Russian delegation on substantive grounds. Condemning “without reservation the violation of the territorial integrity and sovereignty of Ukraine by the armed forces of the Russian Federation in early March 2014”, and expressing their “gravest concern that members of the upper House of the Russian Parliament unanimously authorised such action in advance”, the signatories expressed their conviction that there had been a “serious violation of the basic principles of the Council of Europe mentioned in Article 3 of, and the preamble to, the Statute”.

2. The second motion on the suspension of the voting rights of the Russian delegation (Rule 9 of the Rules of Procedure of the Assembly) ([Doc. 13459 corr.](#)) was signed by 53 members. In particular, the signatories expressed their serious concern about “the persistent failure by the Russian Federation to honour its obligations and commitments” as demonstrated by the “actions of Russian military forces in the Crimean peninsula, as well as explicit threats of military action in the rest of Ukraine’s territory”. Furthermore, they stressed that, “the use of armed forces on the territory of Ukraine was authorised by the Federation Council of Russia on 1 March 2014.”

3. In accordance with Rule 9.2 of the Rules of Procedure, the Bureau of the Assembly, at its meeting on 7 April 2014, proposed to refer both motions to the Monitoring Committee for report and to the Committee on Rules of Procedure, Immunities and Institutional Affairs, for opinion. The reference was confirmed by the Assembly at the opening of the second part-session.

4. I was appointed rapporteur by the Monitoring Committee at its first meeting during the part-session, on 7 April 2014. It was agreed that, in order to satisfy the requirements of the accelerated procedure, a draft report and resolution would be submitted for the committee’s consideration and adoption already on 8 April 2014.

5. It seems appropriate to stress that my mandate is specifically limited to the issue of the already ratified credentials of the Russian delegation; namely whether they should be confirmed, annulled or confirmed subject to restrictions as foreseen in Rule 9.4.a, b or c, in the light of recent developments which are referred to in the tabled motions.

6. This report will therefore not deal with the situation in Crimea and will only refer to developments in Ukraine if directly relevant to the assessment of the actions undertaken by the authorities of the Russian Federation and their compliance with the obligations and commitments resulting from membership in the Council of Europe.

7. It should be mentioned that a specific report on the situation in Ukraine, prepared by the co-rapporteurs on this country will be presented by the Monitoring Committee for debate under urgent procedure during the current part-session of the Assembly. Whenever relevant, I make reference to this report.

8. Needless to say, I am not mandated with the overall assessment of Russia’s compliance with its obligations and commitments, which is the task of the co-rapporteurs on Russia. Therefore, I only refer to the obligations and commitments which are directly relevant to the subject of this report.

2. Points of concern with regard to the action of the Russian Federation

9. From November 2013, following the unexpected decision of President Yanukovich not to sign an association agreement with the European Union in Vilnius, huge protests took place on a daily basis in Kyiv and other regions of Ukraine. These demonstrations have cost over 80 lives. On 21 February 2014, in an attempt to calm the situation, the Foreign Affairs Ministers of France, Germany and Poland, in the presence of Mr Lukin for the Russian Federation, brokered a compromise providing, *inter alia*, for an early presidential election in December 2014. On 22 February 2014, however, President Yanukovich disappeared. The Verkhovna Rada consequently voted by a two-thirds majority: a) to go back to the 2004 constitutional amendments; and b) to impeach President Yanukovich. On 23 February 2014, The Verkhovna Rada elected an acting President and, on 27 February 2014, a new interim coalition government was formed in Kyiv. An early presidential election is scheduled for 25 May 2014. This put an end to three months of anti-government protests and bloodshed.

10. While the overwhelming majority of the international community, including the European Union, the United States and the United Nations recognised without reservation the new Ukrainian authorities, the Russian Federation refused to do so, calling the new government “illegitimate” and declining any direct dialogue. The impeached president Yanukovich who re-appeared in the Russian Federation on 28 February 2014, was allowed to organise a press conference during which he announced that a “coup” had taken place in his country and requested the Russian President’s help.

11. I am confident that in their report the co-rapporteurs on the monitoring of obligations and commitments by Ukraine will make an in-depth and balanced analysis of the developments with regard to the functioning of democratic institutions in this country, and I am not going to interfere with their task. I am sure that they will take fully into account the complexity of the situation, and assess the actions – and perhaps mistakes – committed by the new transitional Ukrainian authorities.

12. In this report, however, I wish to point out that during that very difficult time, from the very beginning of the establishment of the new authorities in Kyiv, and even before, the Russian authorities spared no effort to discredit – by means of unjustified accusations – the fragile political consensus. In particular, they made numerous statements which – despite the lack of any material evidence – persistently referred to the “fascist” and “neo-Nazi” nature of the Ukrainian Government and the forces which had brought it to power, accusing them of actions which have subsequently not been confirmed and thus fuelling the fears of the Russian-speaking population.³

13. In his address on 18 March 2014 to both Chambers of the Russian Parliament, President Putin said: “Nationalists, neo-Nazis, anti-Semites and Russophobes were the main executors of the coup, and even today they largely determine life in Ukraine”.

14. Likewise, many Russian officials have referred to the alleged violence and threat of violence against the Russian-speaking population, as well as alleged cases of human rights and minority rights violations. The groundlessness of these serious accusations, which were generalising isolated cases and marginal behaviour, has been demonstrated by abundant evidence provided by the national and international civil society and organisations including the Organization for Security and Co-operation in Europe (OSCE) as well as by independent journalists and declarations of those concerned.

15. To illustrate this pattern, I would like to draw attention to the statement made by the Russian representative, Mr Vitaly Churkin, at the United Nations Security Council at its extraordinary meeting held on 3 March 2014 in which he cited an alleged attack on the famous Monastery of the Caves in Kyiv that was widely reported in the Russian media. However, even prior to this statement, the monastery’s authorities had said that no attack had taken place.

16. Replying to the questions about alleged anti-Semitism during the protests in Ukraine, Ukraine’s Chief Rabbi, Yakov Dov Bleich, said on 4 March 2014 that the main threat to Ukrainian Jews was “provocation” staged by Russia, adding that “the same way the Nazis did when they wanted to go into Austria and they created provocation”.

17. Most recently, the groundlessness of these accusations has been confirmed by the ad hoc report of the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities, which carried out an ad hoc visit to Ukraine from 21 to 26 March 2014, following the decision of the Committee of Ministers taken on 14 March 2014, in order to review, in the light of recent developments, the situation of national minorities in Ukraine. In its conclusions, the Advisory Committee stated that it “observed no immediate threat to the enjoyment of minority rights in the current situation in mainland Ukraine”. It expressed, however, concern “about the negative impact of some media coverage, at national and international level, on inter-ethnic relations in Ukraine. The regular and, based on the delegation’s assessment, frequently unsubstantiated reports on ongoing human and minority rights violations in Ukraine raise tension and fears among the population that are not conducive to calming the overall environment and are particularly unhelpful in the current pre-election context. The situation requires the immediate attention of national and international actors to avoid further escalation”. These conclusions of the Council of Europe’s own monitoring mechanism must raise the utmost concern.

3. This regrettable rhetoric of Russian officials could be observed during the whole period of demonstrations in Kyiv. For example, Deputy Speaker Yury Vorobyov said that protesters in Kyiv were trained in Poland and Latvia with US money and that if Russia did not intervene militarily, it would be a tragedy for the Ukrainian people. President Putin, at a press conference on 4 March 2014, said “The people operating in Kiev were very well trained at special camps in Poland and Lithuania. They were trained by special structures”.

18. The statements of Russian officials have been completed by biased coverage of the situation by the Russian State-controlled media, including public television. From the outset of the demonstrations in Kyiv, the Russian media in general concentrated on raising anxiety among Russian-speakers, convincing them that “the fascist revolt” targeted the Russians and Russian-speakers and that is why the “protection” of Crimea, which is populated by a majority of Russian-speakers, was necessary.

19. Russian State television has gone to great lengths to manufacture an image of the protests as a far-right extremist movement with the ultimate goal of destabilising Russia. Again, to illustrate this manipulation I would like to refer to the report aired by the Russian television channel “ORT” on 1 March 2014, showing hundreds of thousands of Ukrainian refugees that had reportedly fled to Russia. In an interview, a Russian Federal Border Guard Service official said that an estimated 675 000 Ukrainians had already fled Ukraine and that they feared a growing humanitarian crisis. However, the pictures of queues at the border used to illustrate these claims turned out to be routine queues at the Ukrainian and Polish border, Shegny-Medyka. There has been no trace of these alleged “refugees” since The United Nations High Commissioner for Refugees said there has been no evidence of unusual migration on the border but the television channel has never rectified its misleading “information”. Ukraine’s Commission on Journalism Ethics has filed a complaint in Moscow against a particularly dishonest Russian television journalist, Dmitry Kiselyov.

20. It has to be stressed that this unjustified reducing of the popular democratic movement in Ukraine to a “Nazi-inspired revolt” by Russian officials and the State-controlled media has largely contributed to the escalation of confrontation on the Crimean peninsula, where the ethnic factor was of particular importance.

21. Against this background, since the establishment of the new authorities in Kyiv, widespread military movements of units from Russia’s Black Sea Fleet, headquartered in Crimea, including tanks and helicopters, could be observed. They were soon complemented by the growing presence of heavily armed soldiers in uniforms without insignia, who occupied public buildings and on 27 February 2014 stormed the region’s parliament. Their equipment and obvious military discipline were in clear contradiction to the claims that they were self-defence units. There is much evidence to confirm that these soldiers without insignia were in fact Russian military forces.

22. It is in the presence of these heavily armed men that, on 28 February 2014, the Parliament of Crimea replaced the Prime Minister by Sergei Aksyonov, a pro-Russian extremist whose party in the 2010 regional elections gained 4% of the votes cast. On 1 March 2014, the newly appointed Prime Minister of Crimea, Sergei Aksyonov, said publicly that troops from Russia’s Black Sea Fleet were already deployed across the peninsula to guard strategically important sites,⁴ thus confirming the crucial importance of Russian military action in the developments in Crimea. On 6 March 2014, the Crimean Parliament decided to organise a referendum on joining the Russian Federation, in clear breach of the Crimean and Ukrainian Constitutions. On 11 March 2014, it declared independence from Ukraine.

23. I will not dwell here on the sequence of events which have led to the so-called referendum; I am confident that these are exhaustively reflected in the report on Ukraine. I fully share the co-rapporteurs’ conviction that the “popular uprising” in Crimea was directed from Russia.

24. Regrettably, some members of the Russian Parliament have played an important role in this process, visiting Crimea already in February 2014 and contributing to the destabilisation of the situation. Our colleague from the Assembly, Mr Leonid Slutsky, who heads the Duma Committee on CIS Affairs, Eurasian Integration and Relations with Compatriots, arrived in Crimea as early as 24 February 2014 and promised publicly that his government would protect Russian-speaking compatriots.

25. Referring to the draft law allowing for a simplified citizenship procedure for Ukrainian citizens of Russian descent, submitted to the Duma by his party (Liberal Democratic Party) a few days earlier, he promised – in front of the cameras – passports to all Russian-speakers. Moreover, he said publicly: “With regard to affiliating Crimea to Russia, if this is the position of the referendum or of the Supreme Council of Crimea, we will study the situation, and we will study it rather fast. If the Crimeans announce their decision, we could work together to find common ground and practical steps to implement it”. This statement was delivered prior to the decision of the Crimean Parliament to conduct an illegal referendum.

26. Sergei Mironov, member of the Duma, leader of the opposition party Just Russia, and the initiator of a controversial draft law on admitting new subjects to the Russian Federation, which he submitted to the Duma on 26 February 2014 with a view to facilitating Crimea’s annexation,⁵ visited Sevastopol on 27 February 2014. On a separate visit the same day, a number of high-profile Russian parliamentarians, including boxing

4. Ria Novosti, 1 March 2014.

champion Nicolai Valuev, former figure skater Irina Rodnina and the first woman in space Valentina Tereshkova, arrived in Sevastopol and met pro-Russian demonstrators, not numerous at that time yet reported as “a few dozen” in the Russian media. It was also reported⁶ that the speakers at the rally “condemned the incoming regime in Kyiv as fascist and called for Russian intervention”.

27. Furthermore, on 1 March 2014, the leaders of Russia’s Upper and Lower Houses of Parliament called on President Putin to “stabilise” the situation in Crimea and protect Russian citizens. The Speaker of the Upper House, Ms Valentina Matviyenko, said that the use of military force could be justified “on the request of the Crimean Government”. Mr Sergei Naryshkin, the State Duma Speaker said that “all available means should be deployed to protect Russian citizens”.

28. On the same day, Russia’s Upper House of Parliament unanimously approved a request from President Putin submitted a few hours earlier to deploy military forces on the pretext that there was a threat to the lives of Russian citizens and military forces located in naval bases in Ukraine’s southern peninsula. This Council of Federation decision came amid reports of large Russian troop movements in Crimea. The Kremlin announced that troops would remain deployed until the “political-social situation in the country is normalised”

29. In reaction to the Federation Council’s decision, Ukraine’s interim President, Oleksandr Turchynov, announced that he considered Russia’s conduct a “direct act of aggression against the sovereignty of Ukraine”.⁷ The Ukrainian authorities accused Russia of trying to provoke conflict and called on the Kremlin to call all soldiers back to Russian naval bases on the Black Sea coast.

30. The threat of military intervention and the increasing military build-up in Crimea continued during the whole run-up to the so called referendum, despite the condemnation from world leaders, who expressed their deep concern about the Russian troop movements and warned that the violation of Ukraine’s sovereignty and territorial integrity would be deeply destabilising and would have serious consequences.

31. The declaration of the independence from Ukraine by Crimea’s Parliament on 11 March 2014 and the subsequent so-called referendum of 16 March 2014 were considered illegal, illegitimate and irrelevant by the overwhelming majority of the international community, including the individual governments of many Council of Europe member States, the European Union and the European Parliament, the Secretary Generals of the United Nations and the OSCE. Russia was warned by a number of countries, including the European Union, that the outcome of the referendum would not be recognised and Russia’s stance on Ukraine would be sanctioned.

32. The Council of Europe voiced its position condemning the referendum in several statements by the Ministers’ Deputies (27 February 2014, 14 March 2014, 20 March 2014 and 3 April 2014), and in the declarations by the President of the Assembly of 17 and 18 March 2014. The European Commission for Democracy through Law (Venice Commission) adopted an opinion in which it clearly considered the planned referendum as unconstitutional and illegal.⁸

33. On 15 March 2014, Russia vetoed a United Nations Security Council resolution declaring the upcoming referendum on the future status of the Autonomous Republic of Crimea invalid and urging all States not to recognise its results. Thirteen other Security Council members voted in favour, China abstained.

34. Intensive diplomatic efforts by European and American leaders to reverse the process of annexation by stopping the Russian military build-up and action which undermined and threatened the territorial integrity of Ukraine have failed so far. The OSCE observer mission was denied entry into Crimea on 6 March 2014, the United Nations Secretary General’s Special Envoy to Crimea was forced to cut his mission short following violent threats against him. The Russians persistently rejected any proposals for a dialogue with Ukraine or the establishment of a contact group. They turned down the proposal by the United States Secretary of State of 5 March 2014 to de-escalate the conflict, to withdraw forces to their pre-crisis numbers, to disarm the so-called self-defence militias and to dispatch international monitors to Crimea and other parts of Ukraine with the

5. The State Duma announced on 12 March 2014 that it would not be necessary to adopt a new law on joining the Russian Federation if the majority of Crimean residents wished to join Russia. Existing laws allowed for Crimea to become a part of Russia on the basis of a referendum. Consequently, the draft law submitted by Mironov was withdrawn.

6. RIA Novosti, 27 February 2014.

7. RIA Novosti, 1 March 2014.

8. Opinion on “whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or restoring Crimea’s 1992 constitution is compatible with constitutional principles”, CDL-AD(2014)002, adopted by the Venice Commission at its 98th plenary session (Venice, 21-22 March 2014).

task of protecting Russian and other minorities from alleged violence. The Russian side has never, throughout the whole conflict, tried to avail itself of any available intergovernmental mechanisms to find a peaceful and negotiated solution in respect of its bilateral and multilateral commitments.

35. Russia has remained indifferent to the calls of the international community and it actively supported the preparation and conduct of the so-called referendum, which was not only in contradiction with domestic and international law, but in no way complied with the guidelines for the organisation of this kind of consultation. Carried out under occupation and in circumstances entirely contradictory to democratic process, it cannot be considered as reflecting the will of the population of Crimea. It is particularly regretful that a Russian parliamentary observation mission led by Mr Slutsky found no violation with regard to the so-called referendum.

36. Despite the overwhelming condemnation of the so-called referendum and rejection of its results, on 17 March 2014, President Putin signed a decree recognising Crimea as an independent State.

37. In protest of Russia's support of Crimea's actions, the European Union, the United States, Canada and some other countries imposed sanctions against senior Russian officials, including visa bans and asset freezes. It is the first time that the European Union has imposed sanctions on Russia since end of the Cold War. The European Union earlier suspended visa liberalisation and trade talks in a first round of sanctions.

38. On 18 March 2014, President Putin addressed both Houses of the Parliament, as well as Heads of Russian regions and representatives of public organisations at a special assembly in the Kremlin. In his address, punctuated by loud applause, he justified his decision. He said that the transition period for the breakaway region's fully joining Russia will last until 2015.

39. Later that day, the Duma adopted a statement, approved by all fractions, welcoming the Crimean people's decision to join the Russian Federation and calling the referendum "a free demonstration of the people's will".

40. On the same day, the Russian President and the leaders of Crimea signed a treaty on joining.

41. On 19 March 2014, following a formal request by President Putin to assess the constitutionality of the agreement signed on 18 March 2014, Russia's Constitutional Court held an emergency session during which it unanimously ruled that the treaty reunifying the Ukrainian breakaway region of Crimea with Russia was lawful and complied with the Russian Constitution.

42. Later that day, the Duma voted to ratify the treaty by 443 votes in favour, one against and no abstentions. During the same session, President Putin submitted to the Duma a draft federal constitutional law detailing the conditions for acceptance of the two new subjects (Crimea and the City of Sevastopol) into the Russian Federation. The upper house voted in favour of the treaty on 21 March 2014.

43. This whole process of illegal annexation involving Russian political institutions and politicians was accompanied by an increased crackdown on the freedom of expression and suppression of the few remaining independent media, trying to be heard over the flood of propaganda produced by the State-controlled media. On 12 March 2014, Galina Timchenko, the Editor of the popular independent Russian news website Lenta.ru was fired after running an interview with a member of the Ukrainian nationalist group Right Sector. Many of the website's reporters resigned in protest, saying in their statement: "The trouble is not that we've lost our jobs. The trouble is that you've got nothing to read."

44. The only independent television station, Dozhd, which had covered anti-government protests in Kyiv without bias, was dumped from all major cable networks in February, news websites were blocked, the General Director of the liberal radio Ekcho Moskv, Yuriy Fedutinov, was fired.

45. On 14 March 2014, the Prosecutor General ordered the blocking of a number of high-profile Internet sites for allegedly making "appeals for illegal activity and participation in mass events organised in violation of the established order". The blocked sites included: Grani.ru; Kasparov.ru; EJ.ru; the Moscow Echo radio station website and the LiveJournal.com website, which host many popular blogs including one by a famous anti-corruption crusader, Mr Alexei Navalny. The sites that have been targeted are those that offered independent information and alternative views, including details on the referendum.

46. The detention of hundreds of anti-war protesters on 1 and 2 March 2014 was another manifestation of the increasing crackdown on the freedom of expression and assembly in Russia. On 3 March 2014, a Moscow court ordered the detention of two protesters for five days on administrative charges. Amnesty International

considered them to be “prisoners of conscience”.⁹ Twenty-eight demonstrators protesting against Russian military intervention in Ukraine were arrested in front of the Ministry of Defence and on Manezhnaya Square. Several dozen people were detained in St Petersburg.

47. Any criticism was eliminated as demonstrated by the case of Professor Andrey Zubov, who wrote a column in the newspaper *Vedomosti* on 1 March 2014 comparing Putin’s potential annexation of Crimea with the annexation of Austria in 1938. On 3 March 2014, he was fired from his post at the University (MGIMO).

48. Despite this overwhelming propaganda, there is some opposition in public opinion to the annexation of Crimea, as shown by the demonstrations of 1 and 2 March, and 15 March 2014, when thousands marched in Moscow.

49. On 26 March 2014, the Council of Europe Congress of Local and Regional Authorities adopted a declaration on the situation in Ukraine in which it stated that “it did not accept the validity of the referendum, held on 16 March, without the minimum democratic guarantees that should be in place for any vote. This pseudo-consultation should on no account pave the way for a change of borders between Russia and Ukraine. The Congress therefore condemns Russia’s annexation of Crimea and Sebastopol in violation of international law”.

50. On 27 March 2014, the United Nations General Assembly overwhelmingly passed a resolution calling the Crimean referendum to secede from Ukraine invalid and condemning the Russian annexation of Crimea. One hundred countries voted in favour, 58 abstained and 10 backed Russia, a result which once more demonstrated Russia’s isolation in the international arena over its action in Ukraine. The ten votes which opposed the resolution came from Armenia, Belarus, Bolivia, Cuba, Nicaragua, North Korea, Sudan, Syria, Venezuela and Zimbabwe. To great surprise, the Russian representative to the United Nations proclaimed the vote to be a “victory” at a press conference, saying: “The result is rather satisfying for us as we have won a moral and political victory. It clearly shows that Russia is not isolated.”

3. Concerns for the future

51. The present situation of minorities in Crimea under the Russian occupation raises the utmost concern. In its ad hoc report, the Advisory Committee on the Framework Convention for the Protection of National Minorities pointed to “grave and immediate concerns regarding the safety and access to rights of persons belonging to the Crimean Tatars”. It also stressed the need for an international presence to monitor the evolving situation on the ground in Crimea.

52. There has been, and continues to be, a steady and noticeable build-up of Russian armed forces along the eastern border with Ukraine close to the areas inhabited by the Russian-speaking population. United States and European security agencies estimate that Russia has deployed military and militia units totalling more than 30 000 people; a continuing influx of Russian forces along the Ukraine border can also be observed. Although Russia has a right, legally, to have its troops on its own soil, it does not, however contribute to the appeasement of the situation and may be considered as an effort of intimidation if not a direct threat of further dismembering of Ukraine.

53. On 28 March 2014, in his statement broadcasted by the public Channel Rossiya 24 News, the ousted President Victor Yanukovich called on the regions of Ukraine to hold a referendum in place of the upcoming presidential election on 25 May 2014, thus undermining the democratic efforts undertaken by the country and fully supported by the Council of Europe. It is regrettable that the Russian public television serves as a platform for this irresponsible action.

54. Biased information and statements by Russian officials continue to stir anxiety among Russian speakers in Ukraine. The proposals made by the Russian diplomacy concerning the creation of an international “support group” which would “help the country to elaborate a new constitution, conduct a referendum and then organise nationwide elections”, along with statements on the need for the federalisation of Ukraine, must raise concern about the real intentions of the authors.

9. Statement by Sergei Nikitin, Director of Amnesty International’s Moscow Office, on 3 March 2014. He also said: “The government’s crackdown on the anti-war protests is highly alarming. In a number of cities people have been targeted for taking part in demonstrations. This is State-sanctioned harassment and intimidation.”

55. There is understandable anxiety in some Council of Europe member States which have large Russian minorities within their borders. I have no doubt that they will follow the debate on the Russian credentials very carefully: if using the false pretext of the need to protect a minority can go unpunished even in the “House of Democracy”, it is a bad prognostic for their future.

56. The Republic of Moldova is one of the countries most concerned. The Russian troops massed on the Ukrainian border are felt as a threat to Transnistria, a Russian-speaking breakaway region that declared independence from the rest of the Republic of Moldova in 1991.

57. On 26 March 2014, at a meeting in Moscow with a delegation from Gagauzia, Mr Leonid Slutsky praised an illegal referendum on integration with a Moscow-led Customs Union, conducted in this autonomous region of the Republic of Moldova a month earlier, calling it “a timely event”. “We fully approve of the poll”, he said.

4. The obligations put into question

58. The actions of Russian military forces in Crimea, the recognition of the results of the illegal so-called referendum and the subsequent annexation of Crimea into the Russian Federation constitute, beyond any doubt, a violation of international law, including of the United Nations Charter and the OSCE Helsinki Final Act. The launch of military action by Russia was in violation of the Budapest treaty signed by Russia, the United States, the United Kingdom and Ukraine in 1994.

59. They are also in clear contradiction with the Statute of the Council of Europe, in particular its Preamble and the obligations resulting from Article 3 as well as with the commitments contained in Assembly [Opinion 193 \(1996\)](#), undertaken by the Russian Federation upon accession to the Council of Europe.

60. Explicit threats of military action, using false arguments and making groundless accusations aimed at destabilising the country and violating its sovereignty and territorial integrity are incompatible with the principles and values governing this Organisation, which stands for human rights, democracy and the rule of law.

61. Statements by Russian top officials, who, by generalising isolated incidents, contributed to political instability in a neighbouring country that was desperately trying to overcome its difficulties, should not have happened in a Council of Europe member State.

62. In this context, the role played by the members of both chambers of the Russian Parliament raises particular concern. The unanimous vote in the Upper House of the Parliament authorising the use of armed force on the territory of Ukraine calls for a firm reaction by the Parliamentary Assembly. Likewise, the unconditional approval of the different steps leading to the annexation of Crimea – adoption of the constitutional amendments, ratification of the treaty on joining, readiness to adopt any law facilitating illegal annexation – must all be strongly condemned. As should the statements by Russian Members of Parliament, particularly at the very early stages of the conflict, which contributed to the illegal process.

63. Misleading propaganda and manipulation by the Russian State-controlled media, including public television, elimination of any criticism of official policies by suppression of freedom of expression and freedom of assembly, constitute other serious violations on the part of Russia.

5. Conclusions

64. All the violations evoked in paragraphs 58-63 of the present memorandum may have very serious consequences for stability and peace, not only in Ukraine but also in other neighbouring countries, and, indeed, in Europe as a whole. All the Council of Europe member States are concerned.

65. The Parliamentary Assembly of the Council of Europe not only represents the shared values of respect for the rule of law, human rights and democracy, but also a means of political dialogue among member States. The concerns of Ukraine, but also of every member State, must be taken seriously. Therefore, the proposal to establish an investigative committee – whilst making it clear that a member State has exceeded the limits of those shared values – will also leave the door open for political dialogue, which is the most developed instrument of parliamentarians. We hope that with set deadlines and the possibility of review, we can rely on the strength of political dialogue and not return to the old pattern of confrontation.

66. At the same time, in order to mark the Assembly's condemnation and disapproval of the Russian Federation's actions with regard to Ukraine, I propose that the Assembly resolves to confirm the ratification of the credentials of the Russian delegation, whilst suspending its voting rights until the end of the 2014 session, as foreseen in Article 9.4.c of the Assembly's Rules of Procedure.