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Consideration of the annulment of the previously ratified credentials of the delegation of the Russian Federation (follow-up to paragraph 16 of Resolution 2034 (2015))

Report[1]
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 regrets the manifest lack of progress with regard to the implementation by the Russian Federation of the demands made by the Assembly in Resolution 2034 (2015). It equally regrets the decision of the Russian delegation to suspend all official contacts with the Parliamentary Assembly until the end of 2015, which is a clear rejection of the Assembly's offer of dialogue and which raises questions with regard to the Russian delegation's commitment to co-operate and to maintain a constructive dialogue with the Assembly, including on the honouring of its commitments and obligations to the Council of Europe.

However, the committee remains convinced that an open dialogue, in good faith, between the Assembly and the Russian delegation remains important in order to find a lasting solution, based on international law and principles, to the conflict in eastern Ukraine and to the illegal annexation of Crimea.

It is therefore essential that the Russian Parliament and its delegation to the Assembly express their unequivocal commitment to enter into a dialogue, without pre-conditions, with the Assembly on Russia's compliance with its obligations and honouring of commitments to the Council of Europe, including with regard to its policy towards its neighbouring States. As a signal of its commitment to such an open and constructive dialogue with the Russian delegation, the Parliamentary Assembly, while noting the sanctions currently in place, should resolve not to annul, at this time, the already ratified credentials of the Russian delegation.

1. Reference to committee: Resolution 2034 (2015), Reference 4128 of 24 April 2015.

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A. Draft resolution[2]

1. The Parliamentary Assembly recalls its Resolution 2034 (2015) on the challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation, adopted on 28 January 2015. In this resolution, the Assembly resolutely condemned the grave violations of international law committed by the Russian Federation with regard to the conflict in eastern Ukraine and the illegal annexation of Crimea. As a clear expression of its condemnation, the Assembly decided to deprive the Russian delegation to the Assembly of a number of rights for the duration of the 2015 session. However, for the sole and explicit purpose of maintaining an open and constructive dialogue with the Russian delegation, including on its actions with regard to Ukraine, the Assembly decided to ratify the credentials of the Russian delegation. At the same time, in paragraph 16 of Resolution 2034 (2015), the Assembly resolved to annul the credentials of the Russian delegation at its June 2015 part-session if no progress had been made with regard to the implementation of the Minsk protocols and memorandum, as well as the demands and recommendations of the Assembly as expressed in that resolution, in particular with regard to the immediate withdrawal of Russian military troops from eastern Ukraine.

2. The Assembly deeply regrets the manifest lack of progress with regard to the implementation of the demands made in Resolution 2034 (2015). It equally regrets the decision of the Russian delegation to suspend all official contacts with the Assembly until the end of 2015, including all visits on behalf of Assembly bodies. The Assembly regards this as a clear rejection of its offer to maintain an open and constructive dialogue, including about Russia's action in Ukraine. This raises questions about the Russian delegation's commitment to co-operate and to maintain a constructive dialogue with the Assembly, including on the honouring of its commitments and obligations to the Council of Europe.

3. The Assembly reiterates its position and demands with regard to the Russian intervention resulting in a military conflict in eastern Ukraine, the illegal annexation of Crimea and the continuing deterioration of the human rights situation in that region, as expressed in Resolution 1990 (2014) on reconsideration on substantive grounds of the previously ratified credentials of the Russian Federation and Resolution 2034 (2015). In addition, it expresses its serious concern about, *inter alia*:

3.1. the harassment and closure of most non-governmental organisations (NGOs) and media outlets in Crimea that are critical of Russia's illegal annexation of the region, including the Crimean Tatar television station ATR;

3.2. the continued deterioration of the human rights situation in eastern Ukraine and credible reports of violations of international human rights and humanitarian law by the two sides in the conflict, including persistent abductions, summary killings, arbitrary detention and torture of civilians in the areas under the control of the pro-Russian separatists and Russian troops;

3.3. the refusal of the Russian authorities to release Assembly member Nadiia Savchenko and their decision to prolong her pre-trial detention, despite, *inter alia*, her enjoying immunity under the General Agreement on Privileges and Immunities of the Council of Europe and its Protocol (ETS Nos. 2 and 10), to which the Russian Federation is a Party;

3.4. the continuing violations, by all sides, of the ceasefire agreed on in the Package of Measures for the Implementation of the Minsk Agreements, signed in Minsk on 12 February 2015, and the continuing presence of heavy artillery in the exclusion zone in violation of these agreements;

3.5. the continuing presence of Russian troops in eastern Ukraine and the influx of advanced weaponry and "volunteers" from the Russian Federation;

3.6. the harassment and persecution of political activists, NGOs and media organisations in Russia who are critical of Russia's role in the conflict in eastern Ukraine. In this context, the recent adoption of the "law on undesirable foreign organisations" is an additional matter of serious concern.

4. The Assembly remains convinced that an open dialogue, in good faith, between the Assembly and the Russian delegation remains important in order to find a lasting solution, based on international law and principles, to the conflict in eastern Ukraine and to the illegal annexation of Crimea. It is now essential that the Russian Parliament and its delegation to the Assembly express their unequivocal commitment to enter into a dialogue, without pre-conditions, with the Assembly on Russia's compliance with the obligations and honouring of commitments to the Council of Europe, including with regard to its policy towards its neighbouring States. The Assembly underscores that the acceptance of such a dialogue is a basic tenet of membership of the Parliamentary Assembly incumbent on all delegations. It therefore calls on the Russian

2. Draft resolution adopted by the committee on 28 May 2015.

delegation to re-establish dialogue with the Assembly without further delay, in particular with regard to the implementation of the demands of the Assembly as expressed in Resolution 1990 (2014) and Resolution 2034 (2015) as well as in this resolution. In this respect, as a first step, the Russian delegation should return to the work of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and allow this committee's rapporteurs for the Russian Federation to go to the country in the context of their work. In addition, the Russian authorities, as the occupying power, should facilitate a joint visit to Crimea of the co-rapporteurs for Ukraine and for the Russian Federation to take stock of the human rights situation in this region.

5. In addition, the Assembly calls upon the Russian authorities to:

5.1. fully implement the Minsk Agreements and the Package of Measures for the Implementation of the Minsk Agreements, to which the Russian Federation is a Party, and use its influence on the insurgent forces to do the same;

5.2. immediately reverse the illegal annexation of Crimea;

5.3. immediately release Nadiia Savchenko and allow her to return to Ukraine;

5.4. release all captives, in particular civilians and including captives held in the Russian Federation, and to use its influence on the insurgent forces to do the same;

5.5. cease the harassment and prosecution of citizens, activists, NGOs and media organisations in the Russian Federation that are critical of the Russian Federation's role in Ukraine;

5.6. bring the law on foreign agents fully into line with European standards and principles;

5.7. fully respect the rights to freedom of assembly and expression, including of those critical of the authorities' policies.

6. As a signal of its commitment to an open and constructive dialogue with the Russian delegation, the Assembly, while noting the sanctions currently in place, resolves not to annul, at this time, the already ratified credentials of the Russian delegation.

B. Explanatory memorandum by Mr Schennach, rapporteur

1. Introduction

1. On 28 January 2015, the Parliamentary Assembly adopted Resolution 2034 (2015) on the challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation, in which it decided to ratify the credentials of the Russian delegation. At the same time, as a clear expression of its condemnation of the continuing grave violations of international law in respect of Ukraine by the Russian Federation, in particular as regards the Statute of the Council of Europe (ETS No. 1) and Russia's accession commitments to this Organisation, the Assembly resolved to suspend the following rights of the members of the Russian delegation for the duration of the 2015 session: the voting rights; the right to be represented in the Bureau of the Assembly, the Presidential Committee and the Standing Committee; the right to be appointed rapporteur; the right to be member of an ad hoc committee on observation of elections; the right to represent the Assembly in Council of Europe bodies as well as external institutions and organisations, both institutionally and on an occasional basis.

2. In paragraph 15 of Resolution 2034 (2015), the Assembly decided that it could consider reinstating the Russian Federation's voting rights and right to be represented in the Bureau of the Assembly, the Presidential Committee and the Standing Committee at its April 2015 part-session, if Russia had made "marked and measurable progress towards implementing the demands of the Assembly formulated ... in paragraphs 4.1 to 4.4, paragraphs 5.1 to 5.3, paragraphs 7.1 to 7.9, paragraph 11 and paragraphs 12.1 to 12.4"; and had given its full co-operation to the working group mentioned in paragraph 17 of Resolution 2034 (2015).

3. In addition, in paragraph 16 of Resolution 2034 (2015), the Assembly resolved to annul the credentials of the Russian delegation at its June 2015 part-session if no progress had been made with regard to the implementation of the Minsk Protocols and Memorandum, as well as "the demands and recommendations of the Assembly as expressed in this resolution, in particular with regard to the immediate withdrawal of Russian military troops from eastern Ukraine".

4. On 12 February 2015, the Assembly received a letter from the Chairperson of the Russian delegation, Mr Alexei Pushkov, in which he announced that the Russian delegation had suspended all official contacts with the Parliamentary Assembly until the end of 2015, including all visits on behalf of Assembly bodies.[3]

5. On 17 March 2015, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), in the light of the manifest lack of progress on the demands of the Assembly formulated in Resolution 2034 (2015), as well as the failure of the Russian delegation to co-operate with the Assembly, unanimously requested the Bureau to withdraw the item on the "Follow-up to Resolution 2034 (2015): Reconsideration of sanctions in respect of the delegation of the Russian Federation to the Parliamentary Assembly" from the agenda of the April 2015 part-session of the Assembly. The Bureau of the Assembly supported this request and, on 20 April 2015, the Assembly agreed to the removal of this item from the agenda of the April part-session.

6. As a follow up to paragraph 16 of Resolution 2034 (2015), on 24 April 2015, the Bureau of the Assembly seized the Monitoring Committee for report on "Consideration of the annulment of the previously ratified credentials of the delegation of the Russian Federation (follow-up to paragraph 16 of Resolution 2034 (2015))". The Committee on Rules of Procedure, Immunities and Institutional Affairs was seized for opinion on this report.

7. At its meeting on 20 April 2015, in anticipation of the Bureau decision, I was appointed rapporteur for the present report by the Monitoring Committee.

8. The Assembly imposed the sanctions outlined in Resolution 2034 (2015) for the full duration of the 2015 session. When the Assembly decided to withdraw discussion on "Follow-up to Resolution 2034 (2015): Reconsideration of sanctions in respect of the delegation of the Russian Federation to the Parliamentary

3. It should be noted in this respect that according to the Rules of Procedure, member States are obliged to fully co-operate with the Monitoring Committee in the execution of the monitoring procedure, including visits of the rapporteurs for that country. In addition, the Russian Federation signed a specific accession commitment "to co-operate fully in the implementation of Assembly Order 508 (1995) on the honouring of obligations and commitments by member States of the Council of Europe, as well as in monitoring processes established by virtue of the Committee of Ministers' Declaration of 10 November 1994 (95th session)".

Assembly" from the agenda of the April part-session due to the manifest lack of progress on the demands made by the Assembly in Resolution 2034 (2015), it reconfirmed all five sanctions[4] for the remainder of the 2015 session. This cannot be altered by this report.

9. At the same time, in paragraph 16 of Resolution 2034 (2015), the Assembly decided to consider the annulment of the already ratified credentials of the Russian delegation. It explicitly did not decide to consider the possibility of applying other sanctions. This report and its draft resolution will therefore only consider whether to annul the credentials of the Russian delegation on the basis of the criteria set out in paragraph 16 of Resolution 2034 (2015) and will not, and cannot, consider reducing or increasing the sanctions, other than the possible annulment of the credentials, imposed against the delegation of the Russian Federation.

10. In the sections below, I will outline the main developments with regard to the implementation of the demands and recommendations made by the Assembly in Resolution 2034 (2015), as well as the main developments with regard to the implementation of the Minsk agreements. In addition, I will include a short section on developments concerning other obligations and commitments of the Russian Federation that are relevant in this context. Lastly, I will explore, in summary, the issues of dialogue and sanctions by the Assembly.

2. Follow-up to Resolution 2034 (2015)

11. When discussing the implementation of the demands and recommendations made by the Assembly in Resolution 2034 (2015), it is important to recall that the Assembly agreed to remove from the agenda of the April 2015 part-session the issue of the reconsideration of sanctions in respect of the delegation of the Russian Federation to the Parliamentary Assembly (follow-up to paragraph 15 of Resolution 2034 (2015)), following a request of the Monitoring Committee as a result of "the manifest lack of progress on the demands of the Assembly formulated in Resolution 2034 (2015)".[5] The basis for my analysis will therefore be the question of whether there have been any developments since the April part-session that could lead to a change in this assessment.

12. With regard to Crimea, there have been no moves to reverse the illegal annexation and its further integration into the Russian Federation is continuing unabated. In a documentary[6] aired on Russian State television on 15 March 2015, President Putin revealed that he had given the order to prepare the annexation of Crimea on 22 February 2014, the day former Ukrainian President Yanukovich fled to Russia. In this context, he also admitted that he had deployed, from the onset, covert Russian military troops without insignia for this purpose. This documentary clearly showed that the annexation was premeditated and planned from its onset by the Russian authorities and was not in reaction to a spontaneous uprising of the Crimean people as a result of the Euromaidan events.

13. The human rights situation in Crimea, and especially the situation of the Crimean Tatars, has continued to deteriorate and is of serious concern.

14. No progress has been made on the investigation of the deaths and disappearances of pro-Ukrainian political activists[7] and harassment of persons opposing the illegal annexation continues. In addition, public assemblies, including commemorative celebrations by Crimean Tatars, are reportedly banned or disturbed.[8]

15. Following the illegal annexation, non-governmental organisations (NGOs) were obliged to re-register according to Russian law. Only a very few NGOs managed to do so. Of the more than 10 000 registered NGOs that existed before the annexation, only around 400 were re-registered. Those NGOs that are registered have reportedly been warned not to organise pro-Ukrainian activities or they will face disbandment under existing Russian anti-extremism legislation. Most worrisome, the Crimean Tatar Mejlis was officially threatened with liquidation under this legislation by the "Prosecutor General of Crimea".

16. Similarly, media outlets were forced to re-register according to Russian legislation before 1 April 2015.[9] A large number of media outlets, and practically all pro-Ukrainian or Crimean Tatar media outlets, were denied registration by the Federal Service for Supervision of Communications, Information Technology and

4. See paragraph 1 above.
5. As well as in the light of the failure of the Russian delegation to co-operate with the Assembly.
6. Crimea, the Road to the Motherland: https://vimeo.com/123194285.
7. Resolution 2034 (2015), paragraph 4.2
8. Amnesty International, One Year On, Violations of the Rights to Freedom of Expression, Assembly and Association in Crimea (EUR 50/1129/2015), pp. 15-18.
9. The original deadline was 1 January 2015; this was, however, extended until 1 April 2015.

Mass Media ("Roskomnadzior").[10] In addition, a tender for the re-assignment of radio broadcasting frequencies was organised before the re-registration process for media outlets was finalised, resulting in a number of radio stations losing their broadcasting frequency.

17. Regrettably, the harassment[11] of Crimean Tatar organisations has continued unabated. On 29 January 2015, the Russian security services arrested Ahtem Ciygoz, the Deputy Chairperson of the Crimean Tatar Mejlis, on charges of organising mass disorder, and on 30 January his house was searched. Despite international outcry over his arrest, his request for bail was refused and he was placed in pre-trial detention. Mustafa Dzhemilev and Refat Chubarov continue to be *persona non grata* in the Russian Federation and are not allowed to return to their residences in Crimea. The Crimean Tatar Channel ATR was denied registration and went off the air on 1 April 2015.

18. The human rights situation in eastern Ukraine continues to deteriorate and serious human rights violations are being committed by all sides, including by the Russian military and Russian volunteers that are present in eastern Ukraine. In its report published on 3 March 2015,[12] the United Nations Human Rights Monitoring Mission in Ukraine noted the credible reports of violations of international human rights and humanitarian law by the two sides in the conflict, including persistent abductions, arbitrary detention and allegations of torture of civilians in the areas of control by the pro-Russian separatists.[13] On 17 March 2015, the United Nations Commissioner for Human Rights expressed his concern about the deterioration of the human rights situation in eastern Ukraine as a result of the violations of the Minsk ceasefire agreement, especially around Donetsk airport and Shyrokyne. On 9 April 2015, Amnesty International issued a statement[14] in which it condemned the torture, ill-treatment and summary killings of Ukrainian soldiers captured by pro-Russian separatist forces, and called for these war crimes to be fully investigated. On 15 April 2015, the Committee of Ministers of the Council of Europe issued a decision on the situation in Ukraine in which the Ministers' Deputies "expressed their serious concern regarding the continued deterioration of the human rights situation in eastern Ukraine and Crimea".[15]

19. In Resolution 2034 (2015), the Assembly expressed its serious concern about the arrest and indictment of Ukrainian helicopter pilot Nadiia Savchenko, in contravention of international law. As Ms Savchenko was by then a member of the Parliamentary Assembly, the Assembly asked the Russian Federation to fully respect its obligations as a Party to the General Agreement on Privileges and Immunities of the Council of Europe and its Protocol (ETS Nos. 2 and 10), according to which Ms Nadiia Savchenko enjoys European parliamentary immunity. It therefore called on the Russian authorities to release Ms Savchenko, within 24 hours after the adoption of the resolution, and ensure her return to Ukraine or to hand her over to a third country.

20. To date, Ms Savchenko has not been released by the Russian authorities. On the contrary, on 30 January 2015, the day after the adoption of Resolution 2034 (2015), the Russian Investigative Committee brought additional charges against Ms Savchenko for allegedly illegally crossing the border of the Russian Federation. On 5 March 2015, Ms Savchenko ended her hunger strike, also after an appeal by the Russian Ombudsperson.

21. On 29 March 2015, the Russian Investigative Committee, in reply to a request from Ms Savchenko's lawyers, refused to accept Ms Savchenko's immunity as a member of the Parliamentary Assembly. On 7 April 2015, Ms Savchenko's lawyers filed an appeal against this decision with the court in Moscow. This appeal was rejected on 6 May 2015. In addition, the court further extended her pre-trial detention until 30 June 2015.[16]

22. Immediately following the adoption of the Package of Measures for the Implementation of the Minsk Agreements on 12 February 2015, President Poroshenko of Ukraine announced that Ms Savchenko would be released by the Russian Federation as part of this agreement. However, this was contradicted by the Chairperson of the Russian delegation to the Parliamentary Assembly, Mr Puskhov, who subsequently stated that he saw no legal mechanism for the automatic release of Ms Savchenko, who "should first prove her innocence before the courts".[17] This was later confirmed by the spokesperson of President Putin, who denied

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10. Amnesty International, One Year On, Violations of the Rights to Freedom of Expression, Assembly and Association in Crimea (EUR 50/1129/2015), pp. 12-14.
11. Resolution 2034 (2015), paragraphs 5.1-5.3.
12. www.un.org.ua/images/stories/9thOHCHRreportUkraine_1.pdf.
13. Report on the human rights situation in Ukraine, 1 December 2014 to 15 February 2015, paragraph 14.
14. https://www.amnesty.org/en/articles/news/2015/04/ukraine-new-evidence-of-summary-killings-of-captured-soldiers-must-spark-urgent-investigations/.
15. Committee of Ministers, 1225th meeting, 15 April 2015, Situation in Ukraine, decisions, paragraph 4.
16. www.rferl.org/content/savchenko-pretrial-detention-extension-ukraine-russia/26997698.html.

that Russia had given any promise of liberating Ms Savchenko.[18] On 14 April 2015, the German Foreign Minister confirmed that Ms Savchenko should be released under paragraph 6 of the Package of Measures for the implementation of the Minsk agreements, which were signed in Minsk on 12 February 2015.

23. No progress has been made with regard to the demands made by the Assembly in Resolution 2034 (2015) regarding Russia's policy towards its neighbouring countries. Controversially, on 18 March 2015, Russia and the *de facto* authorities of the self-proclaimed "Republic of South Ossetia" signed a treaty for "alliance and integration" similar to the one signed between Russia and the self-proclaimed "Republic of Abkhazia". This was condemned by the international community, including by the Monitoring Committee rapporteurs for Georgia, who considered it a sign of the creeping annexation of these regions by the Russian Federation.

24. In paragraph 17 of Resolution 2034 (2015), the Assembly invited the Bureau of the Assembly "to consider setting up, pending the agreement of the parliaments concerned, a special working group with the participation of the Speakers of the Russian State Duma and the Ukrainian Verkhovna Rada, or their representatives, to contribute to the realisation of all the propositions made in this resolution and to formulate further possible action by the Parliamentary Assembly in support of the implementation of the Minsk protocols" and asked for the full co-operation of the Russian delegation in it.

25. On 4 February 2015, the President of the Parliamentary Assembly, Anne Brasseur, sent a letter to the Chairperson of the Russian State Duma, Mr Sergey Naryshkin, regarding Russian participation in this working group. In a letter dated 6 February 2015, declining the invitation, Mr Pushkov, stated that "a working group was set up to assist with resolving the situation in Ukraine within the framework of the Parliamentary Assembly of the OSCE in July 2014", the work of which was blocked, according to Mr Pushkov, by Poland, Ukraine and the United States. As mentioned above, in a letter dated 12 February 2015, Mr Pushkov confirmed the decision of the Russian delegation to cease all contact and co-operation with the Parliamentary Assembly until the end of 2015.

3. The Minsk agreements and Russian military presence in Ukraine

26. The developments in eastern Ukraine, and Russia's involvement in them, up until January 2015 have been succinctly described in my report[19] leading to Resolution 2034 (2015). A detailed outline of the events in eastern Ukraine since then is beyond the scope and purpose of this report. I will limit myself to the main developments that have taken place since January 2015.

27. By mid-January, Ukrainian military troops had regained control over Donetsk airport. On 21 January 2015, separatist forces, aided by Russian military troops,[20] launched an offensive against Donetsk airport, which resulted in the ousting of the Ukrainian forces. Following their successful capture of Donetsk airport, separatist and Russian forces started a number of offensives against Ukrainian military troops all along the line of contact established by the Minsk agreements of September 2014. Fighting was especially intense around Mariupol and the town of Debaltseve.

28. Debaltseve is a strategically important town that was under government control. Due to its strategic position as a road and rail junction, separatist troops, helped by Russian army troops, started an offensive against it on 17 January 2015. In the following days, the town was shelled by heavy artillery and multiple rocket launchers, leading to considerable numbers of civilian casualties. By the end of January, pro-Russian forces had practically encircled the town and the situation of the Ukrainian defenders and civilians trapped in the town had become untenable.[21] By 31 January 2015, more than a 1 000 civilians had been evacuated by the Ukrainian authorities and reinforcements were sent to aid the troops trapped in the town. Fighting continued and by 11 February the town was completely encircled by separatist forces. Following the signing of the ceasefire agreement in Minsk on 12 February 2015,[22] and in clear violation of these agreements, separatist and Russian forces started a new offensive and by 18 February they had managed to occupy the

17. http://tass.ru/politika/1763510.
18. www.interfax.ru/russia/423849.
19. Doc. 13685.
20. President Poroshenko, in a statement the same day, alleged that more than 9 000 Russian military troops were present in eastern Ukraine, as well as tanks, heavy artillery and rocket launchers.
21. www.reuters.com/article/2015/01/29/us-ukraine-crisis-deathtoll-idUSKBN0L217220150129.
22. See paragraphs 29-35 below.

town. The self-proclaimed leader of the so-called Donetsk People's Republic, Alexander Zakharchenko, publicly stated that, for the separatist forces, the February 2015 Minsk agreements were not applicable to Debaltseve.[23]

29. On 24 January 2015, separatist forces, reportedly assisted by Russian artillery and troops, also started an offensive towards Mariupol, including the shelling of the city that resulted in more than 30 civilian casualties. This offensive was eventually pushed back by a counter offensive of the Azov volunteer battalion and the Ukrainian armed forces. The situation around Mariupol is especially sensitive, with some separatist leaders openly announcing that they will continue to try to take the city from the Ukrainian army. The occupation of Mariupol by separatist and Russian forces would be an important step towards establishing a land bridge to Crimea (or even further, to Odessa), which is considered by many to be a possible long-term objective of the Russian authorities.[24]

30. The breakdown of the ceasefire agreed in Minsk in September 2014 resulted in a series of intense diplomatic negotiations led by the German Chancellor and French President, which culminated in the signing, on 12 February 2015 in Minsk, of the "Package of Measures for the Implementation of the Minsk Agreements",[25] which included a new ceasefire agreement to come into force on 15 February 2015. The renewed outbreak of hostilities and the separatist advance in January 2015 resulted in the United States considering supplying lethal military aid to the Ukrainian armed forces. It is beyond doubt that this possibility played an important role in facilitating an agreement in Minsk on 12 February 2015.

31. A detailed discussion and analysis of the Package of Measures for the Implementation of the Minsk Agreements is beyond the scope of this paper. I will limit myself to the aspects that are relevant to the subject of this report. On 15 February 2015, the ceasefire agreement negotiated in Minsk on 12 February came into effect. However, as described above, in violation of this agreement, the offensive of Debaltseve by separatist forces, with Russian backing, continued unabated until the fall of this town into separatist hands. Nevertheless, the ceasefire agreement has resulted, until now, in a cessation of large-scale military hostilities. However, the ceasefire remains extremely fragile and is violated on a daily basis, especially around Donetsk airport and Mariupol. Both President Hollande and Chancellor Merkel have repeatedly stated that a separatist offensive towards Mariupol would result in a significant intensification of sanctions against Russia by the European Union.

32. The Package of Measures for the Implementation of the Minsk Agreements stipulates that both sides should withdraw their heavy artillery to an equal distance to form a security zone.[26] Both sides have withdrawn considerable numbers of heavy weapons from the so-called security zone, but many more remain. The extent of the withdrawal of heavy arms cannot be conclusively verified by international monitors who are regularly restricted in their movements by both sides. In addition, several Western governments, as well as the North Atlantic Treaty Organization (NATO), noted a considerable influx of Russian arms and equipment to the rebels immediately following the signing of the agreements in Minsk in February 2015.

33. The package of measures imposes the release of all hostages and unlawfully detained persons by all parties to the conflict, including Russia.[27] Regrettably, as mentioned in the previous section, Russia argues that Nadiia Savchenko is not covered by this paragraph and refuses to release her.

34. The Package of Measures for the Implementation of the Minsk Agreements outlines a series of steps to be taken to facilitate a negotiated political solution to the conflict. In this framework, the package of measures foresees the establishment of four working groups: on security, on political process, on economic affairs and on humanitarian issues. I call on the Russian authorities to participate fully and constructively in these working groups and to ensure the same from the representatives of the separatist forces.

35. The ceasefire agreement remains fragile and there are many obstacles to the implementation of the Minsk agreement from all sides that could easily lead to a renewed outbreak of full-scale military hostilities.[28] The possibility of this happening was highlighted by a statement by the leader of the self-proclaimed Donetsk People's Republic, Aleksandr Zacharenko, in which he warned that the ceasefire agreement would fail unless

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23. www.telegraph.co.uk/news/worldnews/europe/ukraine/11414407/Ukraine-ceasefire-slows-but-does-not-stop-war-in-the-east.html.
24. See also document AS/Mon (2015) 13.
25. www.elysee.fr/declarations/article/package-of-measures-for-the-implementation-of-the-minsk-agreements/.
26. Paragraph 2.
27. Paragraph 6.
28. www.crisisgroup.org/~/media/Files/europe/ukraine/b073-the-ukraine-crisis-risks-of-renewed-military-conflict-after-minsk-ii.pdf.

the independence of the self-proclaimed Donetsk People's Republic was recognised.[29] I reiterate the call made by the Assembly to all parties in the conflict and, in the context of this report, especially to the Russian Federation, to implement in good faith the Minsk agreements. In addition, I call on the Russian authorities to withdraw all their military troops from Ukrainian territory; to immediately cease the supply of arms to separatist forces and to take credible measures to end the participation of Russian volunteers in this conflict.

36. The Russian authorities continue to deny the involvement of Russian military troops or the supply of Russian advanced weaponry to separatist forces in the conflict in eastern Ukraine. However, this is clearly belied by the overwhelming body of publicly available evidence to the contrary. These include reports by NATO and its member States, analysis of commercially available satellite imagery by independent defence analysts as well as journalists' and other eyewitness accounts, including accounts by Russian military personnel on social media and in interviews. In March 2015, the renowned independent British think-tank, the Royal United Services Institute (RUSI), published a briefing paper[30] detailing at the battalion level the involvement of Russian military troops in Ukraine, as well as the establishment of hybrid battalions of Russian military and Russian and other volunteers in an effort to conceal the direct participation of Russian military in the conflict.

4. Developments on other commitments and obligations of the Russian Federation

37. As stated in Resolution 1990 (2014) and Resolution 2034 (2015), Russia's actions with regard to Crimea, as well as its role and participation in the conflict in eastern Ukraine, are in direct violation of the Statute of the Council of Europe as well as of its accession commitments, in particular paragraphs 10.7, 10.8 and 10.11 of Assembly Opinion 193 (1996).[31] In addition, the events in Ukraine have exacerbated a number of negative tendencies – often related to the increasing importance of the ideology "Eurasianism" – in the Russian Federation with regard to other obligations and commitments that are of relevance for the completeness of this report. These tendencies have led to an increasingly marginalised political opposition, increased control over the media and the stifling of independent voices in civil society.

38. The annexation of Crimea by Russia and the ensuing military conflict in south-eastern Ukraine have led to increased harassment and repression of activists and human rights organisations and intimidation of dissident voices in Russia. The overall political climate, guided by security and stability goals, has proved to be detrimental to the respect for fundamental rights over recent months. Through the setting up and the application of a repressive legal framework, further restrictions have been placed on the opposition, independent media and civil society, hindering the freedoms of expression and assembly. Independent NGOs have been under constant threat, which has been detrimental to their work.

39. The NGO legislation has hindered the activity of many human rights organisations, forcing them to shut down or face harassment and persecution at the hands of the authorities. The implementation of this legislation has included harsh action aimed at preventing and dissuading civil society organisations, including the Soldiers' Mothers Organisation, from carrying out their work. Over 53 organisations were registered as "foreign agents". A number of these NGOs challenged this decision in court. At least five of them lost their cases[32] and at least 15 groups decided to start disbanding in order to avoid further persecution.[33] Concerns have also been expressed about the complex procedure of removal from the "foreign agent" registry,[34] which does not appear to have been solved[35] by the new law regulating the procedure of exclusion of non-

29. www.bbc.com/news/world-europe-32363766.
30. https://www.rusi.org/downloads/assets/201503_BP_Russian_Forces_in_Ukraine_FINAL.pdf.
31. Opinion 193 (1996), paragraph 10.7: "to settle international as well as internal disputes by peaceful means (an obligation incumbent upon all member States of the Council of Europe), rejecting resolutely any forms of threats of force against its neighbours"; paragraph 10.8: "to settle outstanding international border disputes according to the principles of international law, abiding by the existing international treaties"; paragraph 10.11 "to denounce as wrong the concept of two different categories of foreign countries, whereby some are treated as a zone of special influence called the 'near abroad'".
32. The Supreme Court's decision of 28 January 2015 to reject the complaint filed by the Ministry of Justice requesting the closure of the "Russian memorial society" is to be welcomed.
33. See statement of Konstantin Baranov, international Youth Human Rights Movement (YHRM) at the OSCE Supplementary Human Dimension Meeting on Freedoms of Peaceful Assembly and Association, with Emphasis on Freedom of Association, based on data collected as a result of the monitoring conducted since March 2013 by the "Closed Society" Initiative for Information and Analysis Website of the Initiative: http://closedsociety.org.
34. Concluding observations on the seventh periodic report of the Russian Federation adopted by the United Nations Human Rights Committee at its 3157th meeting held on 31 March 2015.
35. www.osce.org/pc/151581?download=true.

commercial organisations from the foreign agents' registry that was adopted in February 2015.[36] The total amount of fines imposed on NGOs for not registering as "foreign agents" is so far more than 6 000 000 rubles (about €100 000).[37]

40. On 23 May 2015, a new law banning "undesirable foreign organisations" was signed into force by President Putin. The Bill criminalises the work of foreign non-profit organisations that are considered to "threaten Russia's constitutional order security and defence capacity" and punishes anyone seen as "collaborating" with them with heavy fines. The list of "undesirable foreign organisations" will be under the responsibility of the General Prosecutor in co-operation with the Foreign Ministry. This legislation is another troubling sign of measures taken by the authorities to restrict public criticism.[38]

41. In particular, the intimidation of media NGOs in Russia has continued, with deliberate and excessive pressure imposed on them, which has further endangered the situation of media freedom.[39] The Mass Media Defence Center (MMDC), which specialises in media law, provides legal assistance and protects media rights, was informed on 20 February 2015 that it would be placed on the register of "foreign agents".[40] The media NGO Regional Press Institute, which aims to assist journalists and the media, has had to pay the biggest fine imposed so far under the "foreign agent" law for not registering.[41]

42. The Russian authorities have tightened State control over the media industry in recent years. Legal obstacles have led to restrictions on independent media, including restrictions on foreign ownership of news outlets, warnings, revocations of licences, closure of news outlets and blockage of websites and online platforms. In this context, new legislation was passed – signed by President Putin on 2 May 2015 – increasing tenfold the maximum fine that can be levied on Russian news organisations accused of inciting terrorism or extremism.[42] These legislative changes raise fears of increased pressure on the country's remaining independent media outlets. News organisations can now be obliged to pay up to 1 million rubles, around US $19 000 (instead of 50 000 and 100 000 rubles) for publishing material deemed to incite or justify terrorism or extremism. The legal definition of "extremism" remains unclear and could lead to an arbitrary application of the new provision.[43] Extremism warnings have also been given to news outlets critical of the Kremlin. For example, in January 2015, a Moscow court rejected an appeal brought by liberal-leaning radio station Ekho Moskvy against warnings it had received from the Roskomnadzor for what the latter deemed was an "extremist" on-air segment about the fighting in eastern Ukraine.[44]

43. This crackdown on civil society and the media is closely interrelated with the systemic intimidation of opposition leaders in an attempt to silence critical voices. Protests against the war in Ukraine and the annexation of Crimea have been harshly and repeatedly repressed.[45] The killing of the prominent political opposition figure, Boris Nemtsov, on 28 February 2015 is the most significant political assassination to date and clear evidence of the deterioration of the political climate in Russia. This murder took place the day before Boris Nemtsov was due to lead the opposition march to protest against economic conditions in Russia and the war in Ukraine and just before he was to publish a report on his investigations on Russia's participation in the Donbas conflict.[46]

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36. http://eng.ombudsmanrf.org/events/news/we_did_it/view/president_signed_law_on_exclusion_of_ngos_from_foreign_agents_registry.
37. Based on data collected as a result of the monitoring conducted since March 2013 by the "Closed Society" Initiative for Information and Analysis, op. cit.
38. https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/russia/russian-federation-the-observatory-deplores-the-adoption-of-the-bill; https://www.amnesty.org/en/articles/news/2015/05/russia-squeezes-undesirable-organizations/.
39. www.osce.org/fom/142391.
40. www.article19.org/resources.php/resource/37868/en/russia:-mass-media-defence-centre,-latest-target-in-continued-ngo-crackdown.
41. www.themoscowtimes.com/news/article/russian-media-ngo-pays-biggest-fine-so-far-under-foreign-agent-law/517907.html.
42. The amendment was passed by the State Duma on 25 April 2015 and approved by the Federation Council on 29 April 2015.
43. www.themoscowtimes.com/article/520181.html.
44. www.themoscowtimes.com/news/article/moscow-court-upholds-extremism-warning-issued-to-ekho-moskvy-radio-station/514996.html.
45. https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/russia/russia-the-un-reviews-dramatic-crackdown-on-civil-and-political.
46. www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0074+0+DOC+XML+V0//EN.

44. Evidence has pointed to the use of torture on the suspects arrested in the course of the investigation into Boris Nemtsov's murder.[47] The Russian authorities have threatened to bring criminal charges against two human rights activists who published torture allegations by the two men accused of the assassination of Boris Nemtsov, raising alarming questions about the fairness of the investigation.[48]

45. The reported harassment of the opposition can also be seen as an effort to destabilise attempts to constitute a united political alternative in the run-up to the forthcoming 2015 and 2016 elections. On 17 February 2015, Russian opposition leader Alexey Navalny was sentenced to 15 days in prison for breaching a law that restricts demonstrations, barring him from attending a rally planned on 1 March 2015. On 28 April, the Ministry of Justice announced that Mr Navalny's Progress Party had been withdrawn from the list of authorised parties, following the cancellation of its legal registration due to the party's alleged failure to register its regional branches on time. The decision came ten days after the announcement of the creation of a new opposition movement in which the democratic opposition had united on a joint platform for the 2015 regional elections and 2016 general elections. The coalition includes Boris Nemtsov's party RPR-Parnas, co-chaired by Mikhail Kasyanov, Alexei Navalny's Party of Progress, and four other parties.[49]

5. Co-operation between the delegation of the Russian Federation and the Parliamentary Assembly

46. In Resolution 2034 (2015), the Assembly stated that: "The Russian Federation therefore needs to engage in a meaningful dialogue with the Assembly on this issue as well as on the honouring of its obligations and commitments to the Council of Europe. However, the Assembly emphasises that such dialogue can only take place if the Russian authorities are willing to participate, in good faith and without preconditions, in a constructive and open dialogue with the Assembly, including on those issues where the views of the Assembly and Russia differ."[50] It therefore decided to ratify the credentials of the Russian delegation – while suspending a comprehensive set of rights to express its clear condemnation of Russia's actions in Crimea and eastern Ukraine – for the sole purpose of fostering "dialogue with the Russian Federation."[51]

47. However, as mentioned above, following the adoption of Resolution 2034 (2015), the Russian delegation decided to cease all contacts and co-operation with the Parliamentary Assembly until the end of 2015. I strongly regret the Russian delegation's decision, which is a clear rejection of the Assembly's proposal to maintain open and constructive dialogue, including about Russia's actions in Ukraine. This raises questions about the Russian delegation's willingness to co-operate and to maintain a constructive dialogue with the Assembly, including on the honouring of its commitments and obligations to our Organisation.

48. At the same time, a dialogue in good faith between the Assembly and the Russian delegation remains important in order to find a lasting solution, based on international law and principles, to the conflict in eastern Ukraine and to the illegal annexation of Crimea. In addition, such a dialogue is necessary for the Assembly to hold the Russian delegation accountable on the basis of the Council of Europe's values and principles.[52]

49. The Assembly has, on multiple occasions, expressed its clear wish to engage in such a dialogue, including in April 2014 and January 2015, when it adopted Resolutions 1990 (2014) and 2034 (2015), in which it ratified the credentials of the Russian delegation to this end. It is now essential that the Russian parliament and its delegation to the Assembly express their unequivocal willingness to enter into a dialogue, without pre-conditions, with the Assembly on Russia's compliance with the obligations and honouring of commitments to the Council of Europe, including with regard to its policy towards its neighbouring States. It should be stressed that the acceptance of such a dialogue is a basic tenet of membership of the Parliamentary Assembly incumbent on all delegations. I therefore call on the Russian delegation to re-establish dialogue with the Assembly in particular with regard to the implementation of the demands of the Assembly as expressed in Resolution 1990 (2014) and Resolution 2034 (2015).

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47. Concluding observations on the seventh periodic report of the Russian Federation, adopted by the United Nations Human Rights Committee at its 3157th meeting held on 31 March 2015.
48. https://www.amnesty.org/en/articles/news/2015/03/russian-activists-threatened-with-criminal-charges-after-raising-torture-allegations/.
49. http://russiannewsonline.blogspot.fr/2015/04/mikhail-kasyanov-and-alexei-navalny.html.
50. Paragraph 13.
51. Paragraph 14.
52. Resolution 1990 (2014), paragraph 14.

50. As a first step, the Russian delegation should return to the work of the Monitoring Committee and allow this committee's rapporteurs for Russia to visit the country in the context of their work. In this respect, it should be noted, according to Rule 8.2.*b* of the Rules of Procedure of the Assembly, that "lack of co-operation in the Assembly's monitoring procedure" is in itself a ground to challenge the credentials of a delegation.

51. It is clear that annulling the credentials of the Russian delegation, on top of the already comprehensive sanctions imposed by the Assembly, could hinder, in practical terms, the establishment of such a dialogue with the Russian delegation. At the same time, it should be clear that the refusal of the Russian delegation to establish a dialogue, on the terms described in the previous paragraphs, could lead to ever increasing calls in the Assembly for the credentials of the Russian delegation not to be ratified in January 2016. The possibility of establishing a constructive dialogue with the Assembly as a whole during the next six months is a chance the Russian delegation cannot afford to ignore.

6. Sanctions by the Assembly

52. In the following three paragraphs, I reiterate some of the observations on the issue of sanctions from my report on the challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation[53] from January 2015. In my view, these observations remain fully valid for the consideration of the annulment of the credentials of the Russian delegation.

53. On 11 April 2014, the Bureau of the Assembly invited the Committee on Rules of Procedure, Immunities and Institutional Affairs to "elaborate a list of rights of participation or representation that may be derived or suspended in the context of a challenge or reconsideration of credentials". On 30 September 2014, this committee approved an opinion for the Bureau[54] on this subject, presented by Ms Nataša Vučković (Serbia, SOC). This opinion was approved by the Bureau of the Assembly at its meeting on 30 September 2014.

54. In her opinion, Ms Vučković stresses that it would be impossible to give an exhaustive list of rights of participation[55] or representation[56] that could be suspended or withdrawn, as this would in practice only be limited by the inventiveness and creativity of the members.[57] However, the explanatory memorandum did also state that any sanctions applied should be based on the principles of consistency and legal certainty of sanctions as well as the principle of proportionality to the seriousness of the infringement in question.

55. The principles of legal certainty and proportionality are therefore important criteria when discussing and deciding on possible sanctions to be imposed on the Russian delegation. Legal certainty in this context implies that similar violations should lead to similar sanctions if repeated, and that similar sanctions by other delegations should lead to sanctions of similar gravity. Proportionality implies that when deciding on applying sanctions, these sanctions – or the absence thereof – cannot be so severe, or so light, that it would make it impossible on future occasions for the Assembly to apply sanctions for more serious or less severe violations of a given country's membership obligations and accession commitments.

56. As mentioned, Ms Vučković also noted that a decision to apply a sanction should be consistent from both a legal and regulatory viewpoint, as well as from a political point of view. In that respect, a decision to apply a sanction should be rational and take into account the effectiveness and clarity of the sanction applied.[58]

57. In Resolution 2034 (2015), the Assembly decided to apply a series of serious sanctions that have had a profound impact on the privileges of the members of the Russian delegation. These sanctions remain in place until the end of the 2015 session. The main effect of an annulment of the credentials, in addition to the sanctions already in place, would be that the members of the Russian delegation would no longer be able to participate and speak in the Assembly and its committee meetings. However, as mentioned above, the Russian delegation has made the regrettable decision to cease all contact and co-operation with the Parliamentary Assembly until the end of 2015. Therefore, the annulment of the credentials in practical terms would not have much additional effect and would mostly be a symbolic gesture. It should be emphasised that,

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53. Doc. 13685.
54. AS/Pro (2014) 10 def.
55. *Inter alia*, the right to vote, to speak, to table amendments or motions, to be appointed as President or Vice-President of the Assembly or one of its committees, to be a rapporteur, to be a member of a committee, etc.
56. *Inter alia*, representation on the Bureau, Presidential Committee, Standing Committee or Joint Committee or representing the Assembly at external events and other bodies, etc.
57. AS/Pro (2014) 10 def, paragraph 12.
58. Ibid., paragraph 16.

at the same time, the condemnation of Russia's actions in eastern Ukraine and Crimea are already clear from the comprehensive sanctions applied. However, annulment would close a number of practical avenues for the Russian delegation to re-open a dialogue with the Assembly, with a view to re-establishing co-operation in order to address the issues of concern of the Assembly as mentioned, *inter alia*, in Resolution 1990 (2014) and Resolution 2034 (2015).

7. Conclusions

58. As mentioned in the introduction, the only question to be dealt with by this report is the possible annulment of the credentials of the Russian delegation. The sanctions in Resolution 2034 (2015) have been imposed on the Russian delegation for the duration of the 2015 session and therefore remain valid until the opening of the first part of the 2016 session. This report cannot reduce or increase the sanctions in place, other than the possible annulment of the credentials.

59. It is clear that no progress has been made with regard to the demands made by the Assembly in Resolution 2034 (2015). In addition, the ceasefire that is part of the Minsk process remains fragile and is violated on a daily basis. Considerable numbers of Russian military forces remain in eastern Ukraine and their presence has reportedly been strengthened following the signing of Package of Measures for the Implementation of the Minsk Agreements on 12 February 2015. In addition, the supply of advanced heavy weaponry to separatist forces and Russian "volunteers" is continuing unabated.

60. However, the annulment of the credentials of the Russian delegation would mostly be a symbolic gesture that would have little additional effect in the light of the sanctions already in place and the decision of the Russian delegation to suspend its participation in the Assembly until the end of 2015. The explicit condemnation by the Assembly of the actions of the Russian Federation in eastern Ukraine, as well as of its illegal annexation of Crimea, is clear from the comprehensive set of sanctions that were imposed by the Assembly for the duration of the 2015 session.

61. In addition, annulling the credentials at this time would hinder any possible attempts by the Russian delegation to establish the constructive and open dialogue the Assembly has been calling for. I strongly believe that the Russian delegation should be given one more chance to engage in a serious and concrete dialogue with the Assembly, without pre-conditions, on Russia's compliance with its obligations and honouring of commitments to the Council of Europe, including its policy towards its neighbouring States and the demands made by the Assembly in Resolution 1990 (2014) and Resolution 2034 (2015).

62. I therefore propose that the Assembly does not annul, at this point, the already ratified credentials of the Russian delegation. However, at the same time it should urge the Russian delegation to use the rest of this year to start a meaningful dialogue with the Assembly on the implementation of the demands made in Resolution 1990 (2014) and Resolution 2034 (2015). Failure by the Russian delegation to do so could easily lead to a renewed challenge to the credentials of the Russian delegation during the January 2016 part-session.