Committee on Political Affairs and Democracy

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Political consequences of the crisis in Ukraine

on the occasion of the joint meeting of the European Parliament Delegations to the EU-Russia Parliamentary Cooperation and to the EU-Ukraine Parliamentary Association Committees

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Dear colleagues,

It is a great honour and pleasure for me to address today colleagues from the European Parliament interested in the subject of the report I am preparing for the Parliamentary Assembly of the Council of Europe, namely the Political consequences of the crisis in Ukraine.

My report is still a work in progress, though quite advanced. I plan to present it to the Committee in March 2016 with a view to a debate in the plenary in April 2016.

In the framework of the preparation of this report I have organised several hearings in the Political Affairs Committee with the participation, among others, of Ms Iryna Gerashchenko, Chairperson of the European Integration Committee of the Ukrainian Parliament and the Ukrainian President’s special envoy for conflict settlement in the Donetsk and Luhansk regions; Mr Gianni Buquicchio, President of the Venice Commission; and Mr Armen Harutyunyan, Head of the United Nations Human Rights Monitoring Mission in Ukraine. I have also asked for a meeting with High Representative Ms Federica Mogherini whom I will hopefully meet next month during her visit to Prague.

My first visit to Ukraine in my capacity as Rapporteur took place from 15 to 18 February 2015. My mission acquired an enhanced topicality as I arrived only a few hours after the leaders of the Normandy format met in Minsk to agree on a Package of Measures for the Implementation of the Minsk Agreements.

Moreover, I accepted an offer made by the members of the Ukrainian delegation to the Assembly to visit not simply Kyiv but also eastern Ukraine and in particular to fly to Kharkiv and then drive from there to Sloviansk and Kramatorsk in the Donetsk Oblast and continue to Severodonetsk in the Luhansk Oblast. There I had the chance to meet not only the governors, but also civil society and international organisations’ representatives in the two Oblasts which are partly controlled by Russian-backed separatists.

Our meeting with civil society, voluntary and international organisations’ representatives in Kramatorsk, on 16 February 2015, was extremely interesting and moving at the same time. A representative from a well-known voluntary organisation from Kyiv called “Save Ukraine” told us that they had come to help evacuate the civilians. Thousands of them were still trapped in cellars in Debaltsevo. More than 90% of the people in Debaltsevo actually wanted to come to the areas controlled by Ukraine. They wanted to come out but could not. The fighting was going on in Debaltsevo and three civilians were killed there on Sunday 15 February. Also, 50 prisoners in a penitentiary system were trapped and could not move. She was joined by other volunteers as well as the United Nations High Commissioner for Refugees (UNHCR) representative in urging us to appeal for the creation of a green corridor for a couple of days to evacuate 5,000 civilians, including women, children, elderly and disabled people, from Debaltsevo. The last assistance had reached them on 6 February so they were running out of food. A representative from the “Heart of Sloviansk” organisation told us that they used to work in the occupied territories too, bringing cargos and evacuating people. But as of 6 January 2015 they were stopped and could no longer deliver humanitarian assistance.

Immediately after my meeting with the voluntary organisations and just before leaving Kramatorsk, I reacted to their appeal and issued a statement calling for the creation of a green corridor in Debaltsevo.1 Also, I contacted the President of the Assembly, Ms Anne Brasseur, who raised the issue with the President of the Parliamentary Assembly of the OSCE meeting in Vienna later that week.

In Kyiv, my meetings were focused mainly on the security challenges the country is facing and prospects for long-term peace and stability. In this context, I reiterated my support and reaffirmed the Assembly’s position in favour of the sovereignty and territorial integrity of Ukraine. At the same time, I expressed the importance of a political and peaceful solution.

My main message in my discussions with the authorities was that even if Russia’s aggression in Ukraine is clearly violating the Statute of the Council of Europe, this does not dispense Ukraine from its own obligation to take steps to implement the agreed Package of Measures and secure long-term peace and stability. For more information, my report on this visit has been made available to you.2

Very recently, 7-11 September 2015, I carried out a second fact-finding visit to Ukraine, where I held meetings in Kyiv, L'viv and Odessa. Having meetings in different cities and with many interlocutors allowed me to immerse myself more fully in the current political debate in Ukraine just ahead of the forthcoming local

1 http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=5431&lang=2&cat=137
2 Information note on the fact-finding visit to Ukraine, on 15-18 February 2015, AS/Pol (2015) 02rev.
elections. I mainly focused this time on the decentralisation related draft amendments to the Constitution to
the extent they are linked to the Minsk process and the prospects for peace, as well as on political stability
and security challenges. I remind you that I arrived to the country one week after the violent incidents in front
of the Ukrainian parliament, provoked by Svoboda and Right Sector protesters, which resulted in the death of
four police officers.

To start with, I was faced with a weakened coalition which could collapse at any moment. I felt great tensions
between the different coalition partners. The Radical Party has left the coalition and, of the remaining four,
two, Batkivshchyna and Samopomich, voted against the decentralisation related amendments. The latter
were voted by the Poroschenko group and the People’s Front, as well as the Opposition Bloc.

The main complaints I heard from the opponents to the decentralisation related constitutional amendments
were based on procedural and substantial grounds: on the one hand, I heard allegations of lack of
communication and consultation and on the other objections as to the content of decentralisation – this was
not for me to judge and comment upon- and about the link to the Minsk Agreements.

As regards the latter issue, Section 18 of the Transitional Provisions of the Constitutional amendments
provides that “Specific arrangements for self-government in some parts of Donetsk and Luhansk oblasts
shall be set forth in a separate law”.

I agreed with all my interlocutors that the decentralisation reform was mainly a domestic one and not simply
required by the Minsk agreements. At the same time, the transitional provision aims at ensuring compliance
with the Minsk Agreements by creating the possibility for extended competencies to be given to certain areas
in the currently rebel-held areas in future, when the necessary conditions are met. I therefore cannot agree
with comments that the amendments give away power to rebels. At the same time, it is not my role to take
sides among various political forces in the country and I cannot judge how the consultation process went on
and especially if there are any misunderstandings from various sides of each other’s position.

In general, I felt that also because of the time pressure, lack of information and communication about the
advancement of reforms was a problem. With all my interlocutors I stressed that political stability was
necessary for the country in times of external aggression as the one that was on-going in the East by Russia.

A report by the United Nations Human Rights Monitoring Mission to Ukraine, published the day I arrived in
Ukraine, refers to 8 000 people having lost their lives in eastern Ukraine since mid-April 2014. The report
refers to both sides using arms they should not be using with the withdrawal of heavy weapons having
remained partial.

In a positive development, the ceasefire seems to be more or less in place. Upon a proposal by the Special
Representative of the OSCE Chairperson-in-Office, Ambassador Sajdic, who succeeded Ambassador
Tagliavini, both sides accepted to implement the ceasefire on the first day of school, 1 September, and since
then the violations have decreased significantly.

Following the last Summit in Paris of the Normandy Format, as of 5 October, the withdrawal of small-calibre
weapons is also advancing. This represents another positive development.

As regards my impressions from my visits to the regions outside Kyiv, I felt total opposition to the Minsk
Agreements in L’viv from the local Rada and criticism by many interlocutors in Kyiv. But my overall feeling is
that, with all their weaknesses and uncertainties, there is no “plan B” to these agreements, they remain the
only kind of guarantee for peace in the future. Again, I heard from interlocutors in parliament that they cannot
be bound by an agreement that was not seen by the parliament and not even signed by Ukraine’s Head of
State.

At the same time, I repeated that it is also important for Ukraine’s international reputation and credibility to
stick to the Minsk Agreements and show that at least she is doing her part without of course compromising
territorial integrity and sovereignty.

As regards the local elections in Ukraine, I will participate in the PACE delegation which will observe them as
part of the Congress of local and regional authorities observation mission. At the time of my visit, the rebels

3 For the Opinion of the Council of Europe’s Venice Commission “on the temporal validity of draft Transitional Provision
18 of the constitution of Ukraine”, but also for other Opinions it adopted with respect to Ukraine at its latest meeting see:
https://wcd.coe.int/ViewDoc.jsp?id=2375983&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE.
in Donbas continued to claim that they would hold local elections in Donetsk and Luhansk on 18 October and 1 November although it was clear that such elections would neither respect the Ukrainian law, as the Minsk Agreements called for, nor the international standards of free and fair elections, requiring a free electoral campaign, access to media for all etc.

The organisation of local elections in Donbas in the coming weeks would indeed be a serious breach of the Minsk Agreements and a threat to the ceasefire and prospects for peace in the country. I am therefore more than happy that the rebels have now accepted to postpone local elections until next year. This decision gives further hope that the Minsk process is still alive and can produce positive results even if it is now clear to all that the deadlines will have to be extended.

Another issue that came up during our talks concerned Internally Displaced Persons (IDPs) voting. For the moment IDPs can only participate in local elections if they have registered a new permanent residence in the areas where they are living. Some MPs have proposed amendments to introduce the right to vote for IDPs. I explained to my interlocutors that there are no hard standards on IDP voting at the Council of Europe and it would be very difficult to organise such a vote at such a short notice within the context of the on-going conflict. That said, I underlined that the rights of IDPs should be ensured in future national, regional and local elections and their status should not be grounds for discrimination.

A last word on Odessa: I discussed there mainly the measures taken by the Governor and his team on fighting corruption. Steps have indeed been taken and the overall aim is to avoid contacts between citizens and public officials by providing for electronic services so as to avoid the chances for bribery.

Let me conclude by repeating that, while welcoming recent progress in the implementation of Minsk Agreements, it is important that Ukraine should now devote even more political resources to fight its “domestic war”. Ukraine must put in place the necessary conditions for building a solid democratic state based on the rule of law. Without strong state institutions and democratic structures, external actors will play even a greater role.

The Council of Europe Action Plan 2015-2017, launched earlier this year, provides the appropriate tools to support Ukraine in fulfilling its obligations and addressing the fundamental issues of human rights and rule of law in the country. The plan includes five areas of action: constitutional reform and the functioning of democratic institutions; reform of the judicial system; democratic governance; combating economic crime; and human rights.

The Verkhovna Rada has a very important mission to conduct these reforms. The political forces should now be more united than ever, setting aside personal differences in order for the reforms to be quick, effective and sustainable. However, what we see today is a repetition of the usual blame game between political forces, and where most political battles are about influence and interests, not policies. Without the political will to adopt the necessary reforms, the country risks facing a situation in which its domestic questions will become an even greater threat than the crisis in the Donbas.

Let me now say a few words, as I understand this question is of interest to you, as regards the impact the conflict has had on the relations between our Parliamentary Assembly and the Russian Federation.

As both Russia and Ukraine are member States of the Council of Europe, one of the biggest challenges for the Parliamentary Assembly has been how to defend the fundamental principles of international law and of the Statute of Council of Europe while maintaining a meaningful dialogue with Russia.

Following the escalation of violence in Ukraine and the illegal annexation of Crimea by the Russian Federation, in March 2014, two motions for a resolution with regard to the previously ratified credentials of the Russian Federation were submitted to the Parliamentary Assembly.

In April, at its second part-session of 2014, members of the Assembly expressed their gravest concerns over the actions of the Russian Federation leading up to the annexation of Crimea, including the unanimous vote in the Council of the Federation authorising the use of military force in Ukraine, the approval of constitutional amendment allowing for the annexation of Crimea and the ratification of the so-called “treaty of unification”. However, while condemning Russia’s actions in Ukraine, the Assembly believed that political dialogue should remain the preferred way to find a compromise. For this reason, with the adoption of Resolution 1990 (2014) in April 2014, the Assembly decided not to annul the credentials of the Russian delegation, which would

4 See https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802ed0b6
have made such dialogue impossible, but to suspend the voting rights; the rights to be represented in the Bureau of the Assembly, the Presidential Committee and the Standing Committee; and the right to participate in election observation missions; until the end of 2014.

The aim of the sanctions was not to exclude Russia from the work of the Council of Europe, but to give a strong signal that our values are not just words and to promote a political settlement of the conflict. However, following the vote, the Russian delegation decided to exclude itself. They departed from Strasbourg immediately after the vote and refused to participate in any plenary session for the rest of the year. The non-participation of the members of the Russian delegation during plenary debates, and their limited participation in Committee meetings, made any mediation impossible.

At the opening of the January 2015 part-session, the credentials of the Russian delegation were challenged on the grounds that the role and participation of the Russian Federation in the conflict in eastern Ukraine and its continued illegal annexation of Crimea were in violation of the Statute of the Council of Europe.

The discussions and the vote took place in a very tense environment: as an example of this, two members of the Russian delegation to the Assembly were physically attacked in the forecourt of the Council of Europe by two Ukrainian parliamentarians not members of the Ukrainian delegation to our Assembly.

The Speaker of the State Duma, Mr Sergey Naryshkin, as full member of the Russian delegation, also came to Strasbourg for the session, but left before the vote.

Again, in a shared spirit of commitment to continue dialogue with the Russian delegation, the Assembly resolved to ratify their credentials but, as a clear expression of its condemnation of continuing grave violations of international law, it decided to suspend 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 participate in election observation missions; and the right to represent the Assembly in Council of Europe bodies and external institutions.

It is regrettable that despite our willingness to commit to an open and constructive dialogue, the Russian delegation formally decided to suspend all official contacts with the Assembly until end of 2015, including all visits on behalf of Assembly bodies.

In Resolution 2034 (2015), adopted in January, the Assembly also decided that it would annul the credentials of the Russian delegation in June 2015 if no progress were made regarding the Assembly demands, including the implementation of the Minsk Protocol and Memorandum. The issue was then examined during the June part-session, which had been a further opportunity to reiterate the importance of respecting the sovereignty, unity and territorial integrity of Ukraine, as well of fostering an open dialogue between the Assembly and the Russian delegation in order to find a lasting solution. As an additional signal of its commitment to maintaining the channels of dialogue open, the Assembly, while noting the sanctions in place, resolved, again, not to annul the credentials of the Russian delegation.

At the moment, the Russian delegation still does not participate in the work of the Parliamentary Assembly, despite the efforts made by the President of the Parliamentary Assembly, Ms Anne Brasseur, who has tried to mediate a rapprochement with the Russian delegation in her discussions with the President of the State Duma.

Further tensions arose in June 2015 when Russia blacklisted 89 European politicians and top officials including former and two current members of the Parliamentary Assembly - Mr Karl-Georg Wellmann from Germany and Mr Robert Walter from the United Kingdom. The latter has been included solely because of the positions he has taken in the Assembly with regard to Russia’s illegal annexation of Crimea and its intervention in eastern Ukraine.

As regards the future relations between the Russian Federation and the Parliamentary Assembly of the Council of Europe, it could be expected that in January 2016 the still unratiﬁed credentials of the Russian Federation will be challenged again on substantive grounds. Let me underline that at the January part-session of each year, there is no need for any written document to be tabled in advance of the sitting. Any Assembly member can raise his or her hand and challenge the credentials of any delegation. If 30 members of the Assembly, coming from at least ﬁve national delegations, support this proposal, the credentials cannot be ratiﬁed and the issue is referred to the competent Committee for report. I suspect this time, as in the previous ones, there will be a report by the Monitoring Committee and an opinion by our Committee on Rules of Procedure, Immunities and Institutional Affairs.
No one can anticipate the result of a potential vote. But, although I continue to believe that as long as Crimea remains annexed to Russia and Russian troops remain in eastern Ukraine, Russia should remain under sanctions, regardless of any role she might wish to play in the Syrian crisis, I think that more colleagues of mine, in January 2016, will be willing to see their Russian colleagues back in our plenary sittings and Committee meetings.

As I have already said, the Parliamentary Assembly can serve as a unique platform for dialogue between Russian and Ukrainian parliamentarians. Political dialogue should remain the preferred way to find a compromise and each part should act responsibly to preserve and implement the Minsk Agreements, as there is no military solution for this crisis.

However, a gesture on the Russian side should be required for the Assembly to be able to ratify credentials without any sanctions this time. Let's hope that this time our Russian colleagues will facilitate things and convince us…

As regards the Assembly’s work on Ukraine, in addition to the debates on the credentials, during the last year and a half we have been working on a number of reports related to specific issues of the crisis in Ukraine.

Our Committee on Migration, Refugees and Displaced Persons has prepared two important reports linked to the humanitarian aspect of the crisis. The first one, *The humanitarian situation of Ukrainian refugees and displaced persons* called on both sides, as well as the international community, to ensure above all the safety, security and human rights of the people affected by the conflict. The numbers of the IDP population are in this respect particularly alarming: as per 14 August 2015, 1 483 110 internally displaced persons were registered in Ukraine - but the real figure is likely to be much higher. The second report recently adopted is *Missing persons during the conflict in Ukraine*. 1 330 persons were registered as missing since April 2014, including not only soldiers but also civilians and volunteers assisting the population in the conflict areas. We called to solve this question through joint efforts of all sides.

The Committee on Legal Affairs and Human Rights is currently investigating *The legal remedies to human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities*. The geographical scope of this report includes all the regions that form part of the Ukrainian national territory according to international law and where central authorities in Kyiv have *de facto* lost control.

In April 2015, during its ordinary session, the Assembly held a current affairs debate on *The political and security situation in Ukraine and its implications*, which was another occasion to address the growing crisis in Ukraine and the need for reforms.

Ukraine is also one of the nine member States currently under monitoring procedure. This means that our Monitoring Committee is verifying the fulfilment of obligations assumed by Ukraine under the terms of the Statute of the Council of Europe, the European Convention on Human Rights and all other Council of Europe conventions to which Ukraine is party, as well as the honouring of commitments entered into by the authorities of Ukraine upon its accession to the Council of Europe. The Rapporteurs of the Monitoring Committee have been following very closely developments in Ukraine and, in particular, since February 2014. They were actually in Kyiv when the violent attempts by the authorities to break up the Euromaidan protests resulted in over 80 fatalities. As a result of their presence, including on the Maidan itself, they were able to see – first-hand – how the events unfolded on the ground.

Last but not least, the situation of Ms Nadiia Savchenko, Ukrainian Member of Parliament and full member of the Ukrainian delegation to the Parliamentary Assembly, who is still detained in the Russian Federation despite the numerous appeals to release her in accordance with the General Agreement on Privileges and

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5 See the report of the Committee on Migration, Refugees and Displaced Persons (Doc. 13651) and Resolution 2028 (2015) on *The humanitarian situation of Ukrainian refugees and displaced persons*.

6 See the report of the Committee on Migration, Refugees, and Displaced Persons (Doc. 13808) and Resolution 2067 (2015) on *Missing persons during the conflict in Ukraine*.

7 See the report of the Monitoring Committee (Doc. 13482) and Resolution 1988 (2014) on the *Recent developments in Ukraine: threats to the functioning of democratic institutions*, as well as AS/Mon (2014) 16 Honouring of obligations and commitments by Ukraine, Information note by the co-rapporteurs on their fact-finding visit to Kyiv and Odessa (7 to 11 July 2014), AS/Mon (2015) 13 Honouring of obligations and commitments by Ukraine, Information note by the co-rapporteurs on their fact-finding visit to Kyiv, Dnipropetrovsk’sk and Kharkiv (18 to 22 May 2015).
Immunities of the Council of Europe, is another major issue of concern and debate in the Assembly. The President of the PACE, Ms Anne Brasseur, has been closely following this matter.

Dear colleagues,

Let me conclude with some reflections on the geopolitical context of the conflict in Ukraine. As we are all aware, both the origins and the consequences of what is going on today in Ukraine have strong geopolitical aspects.

The outbreak of the crisis was immediately preceded by a competition between the EU and Russia for the future geo-economic orientation of Ukraine. Under the rule of President Viktor Yanukovych, Ukraine swung in search of a better deal between the EU, on the one hand, and its offer of closer ties through the Eastern Partnership programme and eventually an Association Agreement, and Russia, which, on the other hand, was trying to seduce the former Soviet republics into the project of a customs union. We all know the dramatic events which followed Yanukovych’s decision not to sign the Association Agreement with the EU but rather to opt for closer ties with Russia.

But if we all regret the violence to which the Maidan events led to and the loss of lives and if we, in the Council of Europe, have tried to help the country investigating into the darkest pages of these events through an Advisory Expert Panel, Maidan will always be remembered as the symbol for Ukrainian people’s struggle for democracy, for respect for the rule of law and human dignity (in a country where corruption was widespread) and for more Europe.

And it is really dramatic that at that very moment, when in Maidan Ukrainian people were striving for closer ties with Europe, for more freedom and real democracy, their neighbour from the East gave a strong signal not only to Ukrainians but to Europe and the whole world that it would not accept such closer ties with the European Union in a country that it considered to be legitimately within its own sphere of influence.

First came the illegal annexation of Crimea by the Russian Federation, in blatant violation of international law, which shocked us all. We all condemned it, we all imposed sanctions, at different levels and for different purposes, but we have not so far managed to reverse it. And then, the conflict expanded to the Donbas. Ukraine has lost large areas of this region and the industrial areas in the East and Southeast. The events in Ukraine were quickly driven beyond Ukraine's borders.

The situation in Ukraine is indeed accelerating shifts in power. During the past months, Russian-EU and Russian-American relations have reached their lowest point since the end of the Cold War. The US and the EU have stood their ground and deployed sanctions to counter Russia’s use of military force, while the latter, faced with an increasingly hostile West, has visibly turned towards the East: China and Russia have become even closer and Russia became a major actor in the Middle East. Russia’s leading role in providing assistance to Iraq and Syria and in fighting against terrorism, including Putin’s appeal at the United Nations to create an international coalition against terrorism where Muslim countries play a key role, is emblematic of Russia’s shift to the East. The West’s failure to achieve its goals in Syria and to destroy the terrorist network has made it possible for Russia to emerge from its isolation and to regain a place on the world stage.

These developments, along with the greater consideration paid to the migration flows in Europe, risk overshadowing the crisis in Ukraine. However, the recent ban on all humanitarian organisations in the East, the continued sporadic shelling, and the two countries’ mutual air ban, show us that the situation continues to be extremely tense and that could escalate further. We must remain attentive.

Nonetheless, some positive and important steps towards the normalisation process have recently been taken, namely the ceasefire deal; the withdrawing of light artillery; the signature of the gas deal; and the decision not to hold – for the moment – local elections in eastern Ukraine. The latter is definitely a success of the so-called Normandy format at its last meeting in Paris on 2 October 2015.

Let me reiterate in conclusion that Ukraine is now desperately in need of a comprehensive peace process which encompasses both a termination of the hostilities and the adoption and effective implementation of the necessary reforms. The internal front, fight against corruption, constitutional reform, including decentralisation, is equally important as the external front. Only a democratic Ukraine with stable state institutions respectful of the rule of law can be a strong and prosperous Ukraine, capable of stopping external aggression and restoring peace.