



Resolution 1988 (2014)¹
Provisional version

Recent developments in Ukraine: threats to the functioning of democratic institutions

Parliamentary Assembly

1. The Parliamentary Assembly deeply regrets the dramatic events on Maidan (Kyiv) from 18 to 20 February 2014 that led to the death of over 100 protesters and 17 police officers. It considers and regrets that the unprecedented escalation of violence was largely the result of the increasingly hard-handed approach of the authorities, including the so-called anti-terrorist action to break up the Euromaidan protests by force, contrary to all advice given by national and international interlocutors, including by the Assembly in its [Resolution 1974 \(2014\)](#) on the functioning of democratic institutions in Ukraine.

2. The Assembly strongly condemns the use of snipers and live ammunition against protesters by the Ukrainian authorities at that time. Such actions are unacceptable. All fatalities and all human rights abuses that occurred in relation to the Euromaidan protests need to be fully investigated and the perpetrators, including those in the line of command, brought to justice. There can be no impunity for human rights abuses, irrespective of who committed them. At the same time, it is important that these investigations are impartial and free from political motivation or any desire for retribution. They should take place transparently and in full accordance with the requirements of Article 6 of the European Convention on Human Rights (ETS No. 5). The advisory committee proposed by the Council of Europe could play an important role in helping the authorities to ensure that these conditions are met.

3. The Verkhovna Rada played an important and constructive role in resolving the crisis when, in unity and consensus, it managed the change of power and implementation of the main provisions of the 21 February 2014 agreement, in line with the overall tenets of the agreement and with due consideration for constitutional principles. The Assembly therefore fully recognises the legitimacy of the new authorities in Kyiv and the legality of their decisions. It regrets attempts to question the legitimacy of the new authorities, which can only serve to destabilise the country.

4. The Assembly considers that the new political environment following the events on Maidan between 18 and 21 February, and the resulting change of power, has opened a window of opportunity for Ukraine's democratic development. It is now important to use this window of opportunity to establish a genuinely democratic and inclusive system of governance that will guarantee and strengthen the unity of the country. In order to fully restore the rule of law, the Assembly calls for the immediate disarmament of all illegally armed persons and groups in Ukraine and for continuous action of the authorities to protect Ukrainian citizens against the endemic corruption in the whole country.

5. The Assembly takes note of the 2004 constitutional amendments that have been re-enacted by the Verkhovna Rada with a constitutional majority. The Assembly recalls and reiterates its concerns with regard to these constitutional amendments, as expressed in various Assembly resolutions adopted when these amendments were first in force. Further constitutional reform is therefore urgently necessary. The Assembly urges the Verkhovna Rada to use its unique unity at this moment to adopt, without further delay, the constitutional amendments necessary to establish a better balance of power between President and

1. *Assembly debate* on 9 April 2014 (15th Sitting) (see Doc. 13482, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Ms Mailis Reps and Ms Marietta de Pourbaix-Lundin). *Text adopted by the Assembly* on 9 April 2014 (15th Sitting).

Legislature and to bring the Constitution fully into line with Council of Europe standards and principles. In that respect, the Assembly welcomes the clearly expressed commitment of all political forces in Ukraine to adopt such constitutional amendments in first reading before the next presidential election takes place and in final reading at the start of the next session of the Verkhovna Rada, in September 2014. In view of the short period of time available, the Assembly calls upon the Verkhovna Rada to make full use of the already existing opinions of the European Commission for Democracy through Law (Venice Commission) on previous drafts and concepts for constitutional reform in Ukraine.

6. There can be no question about the legitimacy of the Verkhovna Rada, which was elected in 2012 in elections that were, *inter alia*, observed by the Assembly. At the same time, the Assembly recognises that, as a result of the recent political developments, including the disarray of the Party of Regions, several groups of people in Ukraine fear that they are not, or not well, represented in the Verkhovna Rada and therefore at the level of the central government. In order to ensure the fullest possible representativity of the Verkhovna Rada, which will benefit the unity and stability of the country, pre-term parliamentary elections should be organised as soon as is technically and politically feasible.

7. The next parliamentary elections should be conducted on the basis of a new unified election code and a regional proportional election system, as repeatedly recommended by the Assembly and the Venice Commission. In order to avoid any unnecessary delays in the adoption of such an election code, the Assembly recommends that the Verkhovna Rada develop a unified election code based on the draft that was prepared by the Kliuchkovsky working group, in which all political forces participated and which benefited from the expertise of the Venice Commission.

8. While constitutional reform and the adoption of a new unified election code should be the immediate priority for the Ukrainian authorities, far-reaching judicial reform and decentralisation of government, including the strengthening of local and regional authorities, should also be urgently considered and implemented.

9. Regrettably, recent events have increased the east-west divide in the country and led to unease among the population of both parts of the country. In the view of the Assembly, the divide is mostly of political origin, despite the clear historical and cultural differences between the east and the west of Ukraine. It recommends therefore that the authorities develop a comprehensive and inclusive strategy to strengthen local and regional authorities and to decentralise government. Such a decentralisation strategy should be based on the principles of a strong unitary State with an effective system of central governance with delegated responsibilities and powers to the local and regional communities. The Assembly strongly objects to any notion of a federalisation of Ukraine and any outside pressures to pursue federalisation in future, as this would substantially weaken the unity and stability of the country.

10. The lack of independence of the judiciary and the structural deficiencies in the judicial system have been long-standing concerns of the Assembly. Far-reaching judicial reforms should now be promptly implemented. The Assembly reiterates its recommendations made in previous resolutions, which remain valid. The Assembly underscores that constitutional amendments are necessary to establish a judicial system that is fully in line with European standards.

11. The Assembly takes note of the conclusions by the Advisory Committee of the Framework Convention for the Protection of National Minorities that visited Ukraine from 21 to 26 March 2014. The Assembly welcomes the fact that there is no immediate threat to the enjoyment of minority rights in the current situation in Ukraine. At the same time, it calls on the authorities to be proactive in adopting all possible measures that could strengthen the unity of the country and to refrain from any discourse or actions that are divisive and that could undermine – or be instrumental in undermining – the national unity of the country. In this context, the Assembly regrets the decision by the Verkhovna Rada to cancel the Law on the Principles of State Language Policy, even if this decision was never enacted or implemented.

12. The Assembly expresses its concern about the increasing number of credible reports of violations of the human rights of the ethnic Ukrainian and Crimean Tatar minorities in Crimea, including access to their homes, following its annexation by Russia. It calls upon the Russian authorities to ensure that these violations are immediately halted and all perpetrators prosecuted. The report of the Advisory Committee of the Framework Convention for the Protection of National Minorities, following its visit to Ukraine on 21-26 March 2014, points out that persons belonging to the Crimean Tatar Turks are exposed to particular risk in Crimea. There is a growing fear and uncertainty among Crimean Tatars, who have been subjected to sufferings from deportations in history. The concerns regarding their safety and access to rights, including the enjoyment of cultural,

education, language and property rights, have to be duly addressed. In addition, international human rights monitors from the Organization for Security and Co-operation in Europe (OSCE) should be given full access to the region.

13. The frequent and unsubstantiated reports of minority rights violations in Ukraine, as well as the negative portrayal of the new government in Kyiv, by certain national and international media, have had a negative impact on interethnic relations in Ukraine, and ultimately on the unity and stability of the country. We call on all media to refrain from such unsubstantiated reports and to cover the developments in the country and its regions impartially and factually. We call upon the authorities to refrain from any censorship of the media. We call on the authorities in Ukraine to reconsider the decision to stop the broadcasting of some television channels in the country and to refrain from any censorship of the media.

14. The Assembly regrets that the democratic changes and political developments in Ukraine have been overshadowed by the developments in Crimea. The Assembly strongly condemns the authorisation of the Russian Federation Parliament to use military force in Ukraine, the Russian military aggression and subsequent annexation of Crimea, which is in clear violation of international law, including the United Nations Charter, the OSCE Helsinki Act and the Statute and basic principles of the Council of Europe.

15. In the view of the Assembly, none of the arguments used by the Russian Federation to justify its actions hold true to facts and evidence. There was no ultra-right wing takeover of the central government in Kyiv, nor was there any imminent threat to the rights of the ethnic Russian minority in the country, including, or especially, in Crimea. Given that neither secessionism, nor integration with the Russian Federation, was prevalent on the political agenda of the Crimean population, or widely supported, prior to Russian military intervention, the Assembly considers that the drive for secession and integration into the Russian Federation was instigated and incited by the Russian authorities, under the cover of a military intervention.

16. The so-called referendum that was organised in Crimea on 16 March 2014 was unconstitutional both under the Crimean and Ukrainian Constitutions. In addition, its reported turnout and results are implausible. The outcome of this referendum and the illegal annexation of Crimea by the Russian Federation therefore have no legal effect and are not recognised by the Council of Europe. The Assembly reaffirms its strong support for the independence, sovereignty and territorial integrity of Ukraine. In connection with the denunciation by the Russian Federation of the agreements, concluded with Ukraine in 1997, on the Black Sea Fleet deployment in Crimea, the Assembly calls on Russia to withdraw its troops from Crimea immediately.

17. The Assembly expresses its great concern about the build-up of large numbers of Russian military troops along the border with Ukraine, which could be an indication that the Russian Federation is considering further unprovoked military aggression against Ukraine, which is unacceptable.

18. Given the risk of destabilisation and the deterioration of the security regime of the whole region by further Russian military aggression against Ukraine, the Assembly recommends that the signatories of the Budapest Agreement, as well as other relevant European States, explore the possibility for tangible security agreements to ensure Ukraine's independence, sovereignty and territorial integrity.