

Highlights from the Call for Action – Helsinki+50 fifth meeting: update on the Situation in Ukraine¹

Wednesday, 19 October 2022, 14:30 – 17:00 CEST, Zoom

Keynote address - main points by Professor M. Pedrazzi from the perspective of international law:

- Regarding **the status of the four regions**, he noted that they have never achieved sufficient stability, as their existence has always been challenged militarily on the part of Ukraine. Since the start of the so-called Russian special military operation in Ukraine, the entire region can be considered under Russian military occupation;
- As a rule, people entitled to claim their self-determination are the people living within the frontiers of each and every state, while **self-determination of minorities within a country is an exceptional occurrence** and is highly controversial if not supported by international consensus;
- Underlined that **the referenda and annexations as a result of the use of large-scale military intervention of the Russian Federation against Ukraine are clear violations** of the ban on the use of force against the territorial sovereignty and political independence of another state, enunciated in Article 2(4) of the UN Charter;
- Recalled that the occupant shall respect, “unless absolutely prevented, the laws in force in the country” (Article 43 of the 1907 Hague Regulations). In addition, he pointed out that the occupation of a territory shall not “affect the legal status of the territory in question”. Therefore, **annexation of an occupied territory pending the war is totally banned by international humanitarian law** (Article 47 of the IV Geneva Convention of 1949 and Article 4 of Additional Protocol I to the Geneva Conventions of 1977);
- Underlined that **the timing and circumstances of the referenda are also questionable** since no trust can be placed in the truthful result of a vote taking place in time of war, under the control of occupying forces. In the circumstances in which they were held, no such referendum could guarantee an expression of free will of the populations involved. Added that it is unclear how the constituencies were determined, in a context where a significant part of the local population had temporarily quit their homes in order to escape the war;
- **Recalled the UN General Assembly Resolution of 12 October 2022** calling upon all States and international organizations “not to recognize any alteration by the Russian

¹ The Highlights from the OSCE PA Call for Action - Helsinki +50 Meetings are not intended to be official conclusions, nor an exhaustive list of all issues or suggestions raised during the debate, but rather a compilation of points recorded for possible future reference. As this compilation is not exhaustive, any comments or suggested additions are welcome.

Federation of the status of any or all of the Donetsk, Kherson, Luhansk or Zaporizhzhia regions of Ukraine, and to refrain from any action or dealing that might be interpreted as recognizing any such altered status”:

- Added that the Ukrainian government is entitled to protest the holding of these referenda at international level, for by bringing also this issue before the International Court of Justice;
- Highlighted that the International Criminal Court, on the basis of Ukraine’s acceptance of its jurisdiction, is dealing with international crimes committed on the territory of Ukraine and the investigation of the Court will bring justice to Ukraine.

Main points raised by panellists:

- Noted that the attempts to reshape the European security architecture by force can be prevented by revitalizing parliamentary diplomacy and parliamentarians must remain vocal about the need to respect OSCE principles;
- Added that the decision of the Russian Federation and Belarus to deploy a joint military force on the border with Ukraine would further jeopardize regional security if the two countries were to make a joint attack from Belarusian territory;
- Recalled that the OSCE PA denounced the illegal referenda and the Russian Federation’s annexation of the occupied territories in Kherson, Zaporizhzhya, Luhansk and Donetsk;
- Stated that, as the negative impact of the war in the OSCE home countries has been felt deeply throughout the OSCE region, the work of parliamentarians in their constituencies is key to mobilize the public opinion, explaining that the rise of inflation and the ongoing energy crisis continue to have negative effects due the Russian Federation’s illegal war in Ukraine;
- Noted that the Black Sea Grain Initiative, brokered by the UN and Türkiye, has helped to stabilize global food markets and combat food insecurity caused by the war in Ukraine;
- Noted that the OSCE PA Birmingham Declaration provides a roadmap for parliamentarians to assist Ukraine and end the war in line with the Helsinki principles which is also reflected in the revised action plan circulated among the members of the Bureau, providing with a clear response from the OSCE PA to the Russian Federation’s war of aggression in Ukraine;
- Underlined that the first Parliamentary Summit of the Crimea Platform will be an important opportunity to foster multilateral dialogue on the situation in Ukraine;
- Underlined that 2,400,000 Ukrainians were moved or deported to the Russian Federation and Belarus from temporarily occupied territories of Ukraine and that the number will grow due the Russian Federation’s decision to declare martial law on temporarily occupied territories of Ukraine and its attempt to recruit local Ukrainians;
- Highlighted that the General Prosecutor of Ukraine has documented more than 52,000 war crimes committed by the Russian army, which will be reflected in the findings of the Special Rapporteur on War Crimes committed in Ukraine;

- Expressed concern that Iran is supplying drones and rockets to the Russian Federation which would severely escalate the situation on the ground;
- Noted that the Parliamentary Assembly of the Council of Europe (PACE) became the first international institution to officially declare the Russian Federation as a terrorist regime and this would strengthen international efforts to hold to account the perpetrators of war crimes;
- Recalled that in the 90's NATO was working very closely with the Russian Federation and Ukraine on the process of denuclearization of Ukraine, and that the United States of America were contributing quite a large amount of resources through the Nunn-Lugar Programme to support denuclearisation of Ukraine and the dismantlement of a significant part of the former Soviet nuclear arsenal. In spite of these efforts, we are facing today the risk of possible use of nuclear weapons, in a major international crisis. Nuclear weapon States have a special responsibility, as permanent members of the UNSC, to maintain peace and security, also in accordance with the Non-Proliferation Treaty. Any use of nuclear weapons would undermine the NPT regime, would weaken the position of the country using NWs, would lead to the de-legitimization of the authority of that country in the UN Security Council and would weaken the Council and the UN as a whole. Any such step will have serious repercussions on the whole system of international relations.

General suggestions:

- OSCE parliamentarians should continue to mobilize the support of the citizens of their home countries for Ukraine including assisting refugees and encouraging them to find a job, to learn the language of the host country and to integrate in the society, while preparing to return to Ukraine as soon as the conditions will allow it;
- Increased parliamentary action to seek a way to end hostilities and revitalize diplomatic talks for a just settlement is urgently needed;
- OSCE parliamentarians should analyse the consequences of the war and think about possible steps for all OSCE participating States;
- Justice will prevail if the people who committed war crimes during the war are tried and convicted in a special criminal tribunal: therefore, participating States should launch initiatives to establish such a tribunal.

Selected points and recommendations by individual participants:

- Stressed the need for appropriate implementation of the provisions of the Parliamentary Assembly's July resolution on amendments to the Rules of Procedure to ensure the possibility to suspend the mandate of the delegation of a state violating the sovereignty and territorial integrity of another state;
- Called for participation in the first Parliamentary Summit of the Crimea Platform, which will be co-hosted by Ukraine and Croatia, to underline the OSCE's contribution to the unity of international community in defending international law;
- Noted that the Russian Federation continues targeting infrastructure, especially power plants, in the centre of Kyiv. Around 30% of the infrastructure in Ukraine has already

been targeted: therefore all participating States should be proactive in supplying arms, weapons and air defence systems to Ukraine;

- Encouraged all parties to assist Ukraine addressing the humanitarian crisis unleashed by the ongoing conflict and providing constant support both bilaterally and through multilateral mechanism;
- Invited all participating states to remain committed to the non-recognition of the illegal annexation of Ukrainian territories by the Russian Federation;
- Stressed that the OSCE should be on the ground during the post-conflict period;
- Took note with concern that the Zaporizhzhya Nuclear Power Plant has been under the occupation of the aggressor and is being used as an object of nuclear blackmail;
- Expressed grave concerns on the possible use of nuclear weapons by the Russian Federation and called for nuclear disarmament.