

Position of Ukraine on the Russian Federation MFA's statement of 11 March on the Declaration of independence of the Autonomous Republic of Crimea and Sevastopol

The Ministry of Foreign Affairs of Ukraine considers the Russian Federation MFA's statement of 11 March on the Declaration of independence of the Autonomous Republic of Crimea and Sevastopol to be a direct and undisguised interference of the Russian Federation in internal affairs of Ukraine, which is in odds with the fundamental principles of International Law and generally recognized principles of states coexistence. The Ukrainian Side strongly condemns such an approach and strongly protests against its use in the Ukrainian-Russian relations. This approach does not only roughly violate the provision of paragraph 7 of Article 2 of the UN Charter, which settled the prohibition "to intervene in matters which belong to the domestic jurisdiction of any State", but also Articles 2, 3, 4, 6 and 11 of the Treaty of Friendship, Cooperation and Partnership between Ukraine and the Russian Federation of 31 May 1997.

The Ministry of Foreign Affairs of Ukraine strongly objects to the Russian Side's assessment of the Crimean Parliament's decision as a "completely legitimate". The Ukrainian Side is deeply convinced of the fact, that no solution can be completely or partially valid, if it contradicts the Constitution of the Autonomous Republic of Crimea, the Ukrainian Constitution and Ukrainian national legislation, the principles and norms of International Law enshrined in the UN Charter, the Declaration "On principles of International Law concerning friendly relations of States under the Charter of the United Nations" of 1970, Final Act of the CSCE/OSCE of 1975, the provisions of other international instruments, including the statement of the President of the Security Council of 20 July 1993, which was unanimously supported by all members of the UN Security Council, including the Russian Federation.

The basic principles of International Law enshrined in the Charter of the United Nations. They set up a system of fundamental rules of International Law regulating relations between the actors and giving a criterion for legality of international law-making and law-enforcement processes. The system means that all its principles are interrelated, interact with each other and have to be evaluated in terms of such interaction. In this regard the principle of equal rights and self-determination directly or indirectly mentioned by the self-proclaimed separatist Crimean authorities as well by the Russian Side cannot be considered separately from other principles of international law, particularly the principle of territorial integrity and non-interference in internal affairs.

It is recognized that the application of the principle of self-determination is possible only if the central government does not meet the requirements of the territory, which it wants, to give to this territory the territorial or national autonomy. In this regard, the Ministry of Foreign Affairs of Ukraine stresses that since independence of Ukraine the Crimea has had a unique status of an autonomous republic within the unitary state of Ukraine. In other words, its desire to get a stand-

alone system and in the framework of this system to solve all the issues within the competence of autonomy was granted. With regard to the requirements of the Crimea to recognize its independence and international legal personality, the Ukrainian Side considers it illegal, because such a requirement is beyond the scope of self-determination and violates the principle of territorial integrity guaranteed by the UN Charter.

The position of Ukraine on this issue is based on the provisions of the Declaration “On Principles of International Law concerning Friendly Relations of States under the Charter of the United Nations” of 1970, which while interpreting the meaning of the principle of equal rights and self-determination of peoples, establishes its limits. According to the Declaration, *“Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.”*

Concerning the reference to *“the UN International Court conclusion on Kosovo from 22 July 2010”* the Ministry of Foreign Affairs of Ukraine reminds that it has consultative character and is not legally binding. Moreover the Russian Federation has lost its right to refer to this conclusion as a result of the estoppel after non-recognition of Kosovo independence. On 18 February 2008 the State Duma (parliament) of the Russian Federation adopted the statement on the consequences of self-declaration of the independence of Kosovo (Serbia). The document clearly stated that the right of the nations to the self-determination cannot justify the recognition of Kosovo independence, and that both Chambers of the Russian Parliament *“consider it as impossible to recognize Kosovo as a sovereign state, to admit Kosovo to UN and other international organizations, devoted to the principles of the international law”*. Apart of this, in the written statement, officially submitted by the Russian Federation to the UN International Court regarding the case of Kosovo, it is stated that *“the right to self-determination cannot be interpreted as such that sanctions or encourages any actions, which would lead to partitioning or partial or total violation of the territorial integrity or political unity of sovereign and independent states”*.

The aforementioned documents give the clear vision about the official position of the Russian Federation on the recognition of Kosovo’s independence. Different approach was condemned by the Russian Federation many times and has not been recognized in case of Serbia. Applying such a different approach to Ukraine can be interpreted only as use of the double standards by the Russian Federation. In its turn, the official position of Ukraine remains unchanged: Ukraine did not recognize the independence of the Chechen Republic of Ichkeria, it does not recognize Kosovo and it will not recognize the independence of the Autonomous Republic of Crimea.

Finally, the UN International Court with the consultative conclusion on Kosovo recognized the declaration of Kosovo’s independence as not contradicting to the International Law, but did not expressed its opinion concerning the legal effects of such a declaration and did not point out that unilateral separation of Kosovo from

Serbia is in line with the international legal norms. Assuming that the Declaration of independence of the Autonomous Republic of Crimea and the city of Sevastopol of 11 March 2014 declares not only independence of the Crimea but also expresses the intention of the secession from Ukraine and to become a part of the Russian Federation, the Ukrainian Side considers it absolutely inappropriate to refer in the future to the Kosovo precedent.

In the statement of 11 March 2014 the Ministry of Foreign Affairs of the Russian Federation took the obligations to respect results of a “*free expression of will of peoples of the Crimea at the referendum*”. There are serious doubts about possibilities for free expression of the will in the region of Ukraine, which de-facto is under the occupation by the military units of the foreign country, in this case – by the Armed Forces of the Russian Federation. International Law strictly requires demilitarization, democratization and de-extremisation of the territory, where plebiscite takes place, and also demands its holding under the UN effective control. Plebiscite, held under the condition of the foreign occupation of the region, will not be recognized by the international community, and its results will be viewed as legally void.

The Ministry of Foreign Affairs of Ukraine would like to disavow the statement by the Ministry of Foreign Affairs of the Russian Federation that the referendum in the Crimea will be held under the control of the OSCE observers. In spite of the fact, that the Russian Federation having usurped the rights of the territorial sovereign, has invited the OSCE to send a mission to observe a “free expression of popular will” of the Crimea’s people, the OSCE has abstained from sending such a mission, because of not recognizing the legitimacy of this process. “*In order that any referendum about the level of autonomy or sovereignty should become legitimate it must be based on the Constitution of Ukraine, and also correspond to International Law*”, stated the OSCE Chairperson-in-Office, Head of Switzerland’s Federal Department of Foreign Affairs D. Burkhalter.

The Ministry of Foreign Affairs of Ukraine condemns provocative statements by the Russian Federation and its actions aimed at aggravating the situation in the Autonomous Republic of Crimea. The Ukrainian Side calls on Russia to return to the civilized framework of developing bilateral relations, stipulated by the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation of 31 May 1997.

Ukraine considers de-escalation of the conflict on the Crimean peninsula as a guaranty of stability and security in the whole Black Sea and Azov region. The Ukrainian Side calls on the Russian Federation to renew urgently the constructive dialogue on bilateral level to settle all the differences in the framework of negotiations.