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## **“A thief can steal a thing, but this does not grant them ownership over it”: Excerpts from the diary of the Permanent Representative of Ukraine to the UN on the diplomatic confrontation with Russian aggression in 2014 (part 2)**

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### **Sasha, a marine. Events on 4-10 March at the UN.**

The Security Council (SC) meeting on 3 March was broadcast live and in full in Ukraine. I received many texts and letters of support from friends and strangers alike. I was pleased that Leonid Danylovych Kuchma called me with support and advice. “Crush him” (Churkin) – Prime Minister Arseniy Yatsenyuk emotionally shouted into the phone along with his advice and support. From that moment on, Arseniy Yatsenyuk called several times a day, asking about the plans of our Permanent Mission to the Security Council and the UN General Assembly. He positioned himself not as a boss, but as a concerned partner.

On the following day, 4 March, and throughout the week, we held regular consultations with our partners in Belarus on the next joint steps. The threat of expanding Russian aggression was growing every day. I gave several interviews every day. I used every opportunity to convey to the UN member states the truth about Ukraine’s history and culture, the truth about the reasons for Russia’s imperial hatred of us. My wife Natalia organised numerous cultural events for the UN women’s diplomatic corps, leveraging her membership in the UN International Women’s Club, the prestigious Cosmopolitan Club founded by Eleanor Roosevelt, good relations with the staff of the Ukrainian Museum in New York and the Ukrainian Institute of America, and the city’s artistic organisations.

On the morning of 6 March, the UN circulated my letter to the President of the Security Council as an official document challenging the legality of Viktor Yanukovich’s request to use Russian armed forces on the territory of Ukraine. In the letter, I informed that “following paragraph 23 of Article 85 of the Constitution of Ukraine, the Verkhovna Rada of Ukraine has the exclusive authority

to approve decisions on the admission of units of the armed forces of other states to the territory of Ukraine”. The letter emphasised that Viktor Yanukovich is no longer the legitimate President of Ukraine pursuant to the decision of the constitutional composition of the Verkhovna Rada of Ukraine on 22 February, which was also endorsed by representatives of the former ruling Party of Regions in a statement on 23 February. In the letter, I reminded them that the Ukrainian parliament had appointed Oleksandr Turchynov as the current president. “Mr Oleksandr Turchynov will act as the current president until a new president of Ukraine is elected in a national vote scheduled for 25 May 2014”. In the letter, I note that “Viktor Yanukovich’s request to the President of the Russian Federation to use its armed forces on the territory of Ukraine cannot be considered an official request of Ukraine” (Letter from the Permanent Representative..., 2014).

From the reports, we learned that Russian politicians, including Putin’s aides and advisers and State Duma deputies, began to arrive in Crimea en masse (Leonid Slutskiy, the head of the State Duma Committee on the Union of Independent States, Konstantin Malofeev, Nikolai Valuev, Valentina Tereshkova, Alexander Vasiliev, and others were particularly engaged). Everyone had their assigned area: the military worked on the military, politicians handled the political area, including actively raising the issues of Russification, issuing Russian passports, preparing for the “referendum”, campaigning, and exerting various influences on the Crimean population. At that time, we also followed dramatic broadcasts from Crimea. In Kerch, Ukrainian marines gave an open-air concert at the barrels of enemy guns. I particularly recall Marine Sasha’s performance of the song by Okean Elzy on 6 March. Courageous guys. Glory to them!

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Alarming information had emerged about the intentions of the illegally appointed leadership of the peninsula to expedite a local referendum on the future status of Crimea, in violation of the Constitution of Ukraine (1996). In this regard, I appealed to the President of the Security Council, Ambassador S. Lucas, to urgently convene the Security Council. The SC members decided to convene their meeting in the format of closed consultations with my participation on Monday, 10 March 2014, at 15:00. Statements were made by the representatives of the United Kingdom, the United States, Lithuania, France, the Republic of Korea, Australia, Jordan, China, Chile, Argentina, Chad, the Russian Federation, Rwanda, Nigeria, and Luxembourg (Official Communiqué of the 7131<sup>st</sup>..., 2014). The very content of the meeting became known from the comments to the UN press by the Permanent Representatives to the Security Council, the British, French, and my own ambassadors. The meeting again demonstrated the fundamental difference in the positions of the 14 members of the Security Council and Russia. The Russian delegation was called upon by all speakers to do its utmost to restrain the Crimean separatists, end the occupation of the peninsula to preserve Ukraine's territorial integrity and prevent military escalation in the region. Ambassador Churkin responded in the manner he has become accustomed to – “we are not there” and everything that is happening is “the initiative of the Crimeans”.

**Arseniy Yatsenyuk: “Do Russians want war?”** As the situation in Crimea has fundamentally deteriorated, Russian aggression has intensified, and there is a threat of an illegal referendum, I have again requested an urgent convocation of the UN Security Council. The meeting was scheduled for 15:00 on 13 March. Prime Minister of Ukraine Arseniy Yatsenyuk arrives in New York to attend the Security Council meeting.

At the opening of the meeting, the floor was given to UN Under-Secretary-General for Political Affairs Jeffrey Feltman, who informed about the UN Secretary-General's vision of the situation on the peninsula. This is what he said in the transcript of the meeting: “In Crimea, the seizure and blockade of Ukrainian military bases, as well as the majority of the State border service facilities, continue. There have been reports that a military hospital has been taken over by unidentified military personnel. On 11 March, it was reported that the Crimean authorities had closed down the airspace of the peninsula to all commercial flights except those to and from Moscow, citing the need to keep so-called provocateurs away from the peninsula”.

Next, Mr Feltman stated the following: “We understand that the referendum called by the authorities in Crimea is expected to go ahead on Sunday, 16 March... On 11 March, Crimea's Parliament adopted a “declaration of independence of the Autonomous Republic of Crimea”... The human rights monitoring mission of the Office of the United Nations High Commissioner for Human Rights is set to become operational in Ukraine by this coming Monday” (Meeting of United Nations of Security Council No. 7134, 2014).

Then the floor was given to Prime Minister Yatsenyuk, who noted that Ukraine was facing unjustified military aggression from a neighbouring country that is a permanent member of the Security Council. The Prime Minister noted that there was still a chance to resolve the conflict peacefully:

“... we commend and praise the Ukrainian military that have refrained from the use of any force” (Meeting of United Nations of Security Council No. 7134, 2014). A. Yatsenyuk called on the Russian Federation to withdraw its troops and negotiate to resolve the conflict. “We are looking for an answer to the question of whether Russians want war. As the Prime Minister of Ukraine, which for decades had warm and friendly relations with Russia, I am convinced that Russians do not want war, and I hope that the Russian Government and the Russian President will heed the wishes of their people and return to the negotiating table to engage in dialogue and solve this conflict” (Meeting of United Nations of Security Council No. 7134, 2014).

The President of the Security Council, Ambassador Lucas, then took the floor: “During my trip to Kyiv on Monday as part of a working visit with my colleagues, the Ministers for Foreign Affairs of Belgium and the Netherlands, I came to a personal realization of the courage and resilience the Ukrainian people have shown over recent weeks. I also had the opportunity to observe the restraint and composure of Ukraine at a time when it is being faced with the violation of its sovereignty and territorial integrity in Crimea... The main reason given by Russia for to justify its actions, that is to say threats against the rights of Russian speakers and Russian communities in Crimea, has been proved to be baseless, as noted recently the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe (OSCE)... The holding on 16 March of a referendum on the status of Crimea is in both form and substance in violation of the Constitution of Ukraine. We call on Russia to cease all actions of support to that referendum... If the referendum is held anyway, the international community will in no way recognize its outcome” (Meeting of United Nations of Security Council No. 7134, 2014).

Next, US Ambassador Samantha Power took the floor and noted that the meeting was taking place against the backdrop of a sharp contrast between the actions of the Kyiv and Moscow authorities. The Ukrainian government has been focusing on national reconciliation, developing plans for free and fair elections with the participation of all political forces, and proposing to establish a task force to consider the expansion of Crimea's autonomy within Ukraine. She also reminded that the government of Ukraine, approved by the Verkhovna Rada, enjoyed extensive support from all political forces, including Yanukovich's former party, and was represented by all regions of the country. Yet Russia chose the path of military action from the very beginning (Meeting of United Nations of Security Council No. 7134, 2014).

Ambassador Power stressed: “The self-anointed Crimean leaders set a referendum with full backing from Russia. That date was to be 25 May. They then reset the date for 16 March, allowing less than two weeks to prepare for and carry out a vote — two weeks on an issue of monumental importance, risking grave destabilizing consequences, in defiance of the Ukrainian Constitution and in defiance of international law. The referendum ballot that will be put to voters contains no option to vote for the status quo... As the vote approaches this weekend, the Russian military intervention continues, and we learned this morning of new military operations by Russian troops

involving artillery batteries, assault helicopters and at least 10,000 additional soldiers near the Ukrainian border. The proposed 16 March referendum on the status of Crimea is everything that the scheduled 25 May election is not. If the 25 May election offers an opportunity under the law for all Ukrainians to participate in charting their shared future, Sunday's referendum in Crimea is hastily planned, unjustified and divisive" (Meeting of United Nations of Security Council No. 7134, 2014).

According to the preliminary agreement, Ambassador Power stated that "the United States is proposing a draft resolution for the Council's consideration that would endorse a peaceful solution to the Ukraine crisis based on international law and the Council's mandate to act, when necessary, to ensure global security and peace". This draft was considered by the Security Council on Saturday 15 March, on the eve of the so-called referendum announced by the separatists. But more on that below.

The US Ambassador was followed by the UK Permanent Representative, Sir Michael Lyle Grant, who commended Mr Yatsenyuk, the government, people and armed forces of Ukraine "for the remarkable restraint they have shown in the face of repeated provocation. Because of their strength of will, there is still a chance for a peaceful diplomatic solution. Over the past week, we have heard in this Chamber and elsewhere an attempt to cast doubt on the legitimacy of the transitional Government in Ukraine. That is entirely unwarranted. Mr. Yanukovych deserted his office and his people in the midst of a crisis. Rather than work to implement the 21 February agreement, he abandoned his post. He was disowned by his own party and his removal was approved by an overwhelming majority of Members of Parliament... We are deeply concerned by the decision of the so-called Crimean Government, installed by an armed putsch accompanied by Russian military intervention, to hold a referendum on 16 March to ascertain whether Crimea should become part of the Russian Federation. We are equally concerned by the legislative steps Russia is taking to facilitate that referendum" (Meeting of United Nations of Security Council No. 7134, 2014).

As always, the speech of the French Ambassador Gerard Araud was emotional, as he emphasised the following: "Russia constantly refers to the agreement of 21 February, negotiated by the Ministers for Foreign Affairs of Germany, Poland and France, which it refused to endorse when it was signed. It has become a very belated supporter of that agreement after Yanukovych's shameful flight" (Meeting of United Nations of Security Council No. 7134, 2014).

So, what was the reaction of the Russian delegation? Ambassador Churkin responded in a way that is typical of his rhetoric: "We have already said in this Chamber that there were no objective grounds for Ukraine's deteriorating situation over the past few months... The escalation was provoked both by forces in Ukraine and by Western sympathizers with that country. In each particular case, one must seek the right balance between the principles of territorial integrity and the right to self-determination... A number of countries that have spoken out against the expression of the popular will of the Crimean people rushed to recognize the independence of Kosovo, which was declared without a referendum by a simple decision of Parliament, despite the protests of Belgrade and the fact that

the declaration of independence took place against the backdrop of an illegal military operation by NATO countries in a situation in which the majority of the Serbian population was forced to leave the province" (Meeting of United Nations of Security Council No. 7134, 2014).

Next, the ambassadors of China, Jordan, Chad, and Argentina addressed the Security Council with their statements. The main thesis of their speeches was support for Ukraine's territorial integrity. Immediately following the Security Council meeting, Prime Minister Arseniy Yatsenyuk met with UN Secretary-General Ban Ki-moon. The Secretary-General expressed his growing concern over developments in Ukraine, including particular alarm over the rapidly escalating crisis in Crimea and reports of rising tensions in the east of Ukraine. Mr Ban Ki-moon said that he was focusing on mobilising the UN's personal efforts to resolve the crisis caused by Russia's military intervention in Crimea, including by sending a special envoy to Ukraine. The Secretary-General stressed that the UN Charter (1945) should be the guiding instrument for collective efforts towards a peaceful resolution of the crisis in Ukraine. The Charter's principles of sovereignty, territorial integrity, peaceful settlement of disputes, and full respect for human rights must prevail. Arseniy Yatsenyuk stressed that the deterioration of the situation in Crimea is a threat to the entire architecture of peace and security in the world; Russia is undermining the principles and rules set out in the UN Charter by its actions. He noted that there is still an opportunity for a peaceful resolution of the crisis. The Ukrainian party, consistently demonstrating its readiness for maximum practical cooperation with the international community, including the UN, informed the Secretary-General of the invitation to the UN observer mission to monitor the observance of the rights of all citizens of the country.

**"I am afraid of the Russians coming to rescue us".** Considering that one of Moscow's main narratives about the reasons for the Crimean referendum was that Russian-speaking Crimean residents rose up in self-defence against the threat from "Banderite Ukraine". I am convening a press conference at the UN headquarters on 14 March in agreement with Arseniy Yatsenyuk (A press conference with the participation..., 2014). I invited Tamara Halo-Olexy, Chair of the Ukrainian Congress Committee of America (UCCA), Yaakov Dov Bleich, Chief Rabbi of Ukraine, Aili Bakkali, Chair of the Crimean Tatar community in the United States, and Alexandra Sviridova, a Russian-speaking independent journalist, to participate as speakers.

In my introductory speech, I emphasised two myths of Russian propaganda. The first myth is about the "forced Ukrainization of education" on the peninsula. In response to this, I cited statistics. According to the Ministry of Education of Ukraine, at the time of the occupation, 208,536 students were studying in Crimea. Of these, 189,132 students, or 90.7%, were taught in Russian, 13,589 – in Ukrainian (6.5%), and 5,551 – in Crimean Tatar (2.7%). In 2013, 7 schools in Crimea provided a full cycle of education in Ukrainian, 15 schools – in the Crimean Tatar language, and several schools with bilingual education. Of all the students in Crimea, 206,866 (99.2%) studied Russian as an academic discipline, and 18,020 (8.6%) studied Crimean Tatar. (In Crimea, after the annexation..., 2017).

Thus, prior to the occupation, even though Russian was not an official language of Ukraine, 90.7% of students in Crimea were educated in Russian and 99.2% studied Russian as a discipline. In the light of these facts, Russia's desire to "protect Russian-speaking" Crimeans from "Ukrainization" appears to be a myth concocted by the Russian authorities to justify their illegal actions on the peninsula. As the following developments in the occupied Crimea will show, in the 2014/2015 academic year, only one school out of 532 general education institutions in Crimea provided a full cycle of education in Ukrainian).

The second myth spread by Russian diplomats at the UN and around the world, and categorically declared by Putin in a telephone conversation with Ban Ki-moon on the morning of 14 March, is that the Kremlin believes that "the decision to hold a referendum is in line with international law and the UN Charter". "The Russian-speaking population of Crimea is entitled to self-determination pursuant to Article 1 of the UN Charter", Moscow's leaders manipulated the fundamental principles of international law to fit their criminal intentions to what was beneficial to their aggression. For authoritarian regimes, it does not matter that Article 2 of the UN Charter (1945) clearly states: (3) All Members of the United Nations shall settle their international disputes by peaceful means in such a manner as not to endanger international peace, security and justice; (4) All Members of the United Nations shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the Purposes of the United Nations.

In her speech, T. Halo-Olexiy provided an overview of the critical situation in Crimea. She stressed the fact that Russia's invasion, which violated Ukraine's sovereignty and territorial integrity, was based on false information that ethnic Russians were under threat. The UCCA head's statement was confirmed by ethnic Russian journalist O. Sviridova, who stated that there had been no harassment of the use of the Russian language in Crimea or in the rest of Ukraine.

In his speech, Rabbi Yaakov Bleich said that the interim government in Ukraine is not fascist, and that the Jewish community stood with Ukrainians during the Euromaidan. The rabbi recalled that during the 20 years of Ukraine's independence, Jews in Crimea lived in complete peace, and only after the Russian troops were dispersed on the peninsula a few days ago was the first anti-Semitic vandalism committed there. According to CCTV footage, an unknown man climbed over the fence of a local synagogue at night, wrote threats against Jews on the wall and drew swastikas. At the end of his speech at the UN, he told a joke: "Two friends who live in Ukraine meet, and one of them says that he is trying not to speak Russian anymore. Not because he is afraid that Ukrainians will attack him, but because he is afraid that the Russians coming to rescue him". Bakkali shared information about the position of the indigenous Crimean Tatar population in Crimea regarding the presence of Russian troops and the planned pseudo-referendum on 16 March, which Crimean Tatars decided to boycott. At the end of the press conference, I noted that minorities in Ukraine are not in danger and echoed the words of the OSCE High Commissioner on National Minorities, Astrid Thors, who recently visited Kyiv

and Crimea, that "no evidence of violations of the rights of ethnic groups has been found".

Two weeks later, in agreement with us, Ambassador Raimonda Murmokaite of Lithuania, as a member of the Security Council, initiated an Arria format meeting (named after Ambassador Diego Arria of Venezuela, who began using this practice in 1992 as Venezuela's representative to the Council, allows for a frank exchange of views in private with the participation of individuals whom the member(s) of the Council who are holding the meeting believe would be useful to hear). Ambassador Silvia Lucas, President of the Security Council in March, convened such a meeting on 31 March (Official Communiqué of the 7151<sup>st</sup>..., 2014), inviting the head of the Mejlis of the Crimean Tatar people, Mustafa Dzhemilev, and journalist Valentyna Samar to participate.

M. Dzhemilev, speaking at this informal meeting of the UN Security Council, said that the pseudo-referendum on the status of Crimea was "cynical" and "absurd": "It is absurd to decide the question of belonging to a country based on a local referendum. Only the indigenous people can have the right to self-determination, and in Crimea, the Crimean Tatars are the indigenous people. But the Tatars boycotted this referendum", Dzhemilev said. He added that, according to his data, not 82% of Crimean residents took part in the referendum, as reported by the Russian authorities, but only 32.4%.

M. Dzhemilev called "cynical" the statement of the Russian authorities about the oppression of Russians in Crimea because most of the heads of local authorities are Russian (in spirit), and most schools in Crimea are Russian-speaking. "First, the Cossacks invaded the territory of Crimea, they seized state institutions and the parliament. Then Russian troops entered Crimea", stated M. Dzhemilev. "The Russian authorities justify their actions by the fact that the Banderite government was established in Ukraine. But this is not true", he stressed.

M. Dzhemilev noted that the relations between the Crimean Tatars and the government of ousted President Viktor Yanukovich were also bad: "Yanukovich's regime was corrupt. Crimean Tatars were regarded as the main opposition to it. They did not vote for Yanukovich and therefore were poorly represented in the government".

The Russian delegation was not present at the meeting, but the Moscow Mission to the UN issued a statement on the matter (Russia refuses to discuss..., 2014). Thus, Russia called the UN Security Council meeting on Crimea a "sit-down". The Permanent Mission of Russia considers it inappropriate to discuss human rights and press freedom in Crimea. "The situation with human rights and press freedom in any subject of the Russian Federation, including Crimea, has no grounds for such discussions", the statement said. This is how Moscow began to blatantly and openly transfer its policy of disregard for human rights to the newly occupied territory. And it so happens that the protection of human rights as a basis for maintaining security and stability, according to the Russian version, "does not fit within the scope of the Security Council's responsibility and has no grounds for such discussions". And the final apotheosis of the Russian statement was the assertion that "such meetings undermine the reputation of the Security Council member states and damage the prestige of the UN Security Council as a whole".

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