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**STATEMENT BY MR. ALEXANDER LUKASHEVICH,
PERMANENT REPRESENTATIVE OF THE RUSSIAN FEDERATION,
AT THE 1221st MEETING OF THE OSCE PERMANENT COUNCIL**

28 March 2019

On violations by Ukraine of its OSCE commitments in the context of the presidential election of 31 March 2019

Mr. Chairperson,

We are obliged once again to raise the issue of Russian observers not being allowed to take part in the monitoring of the presidential election in Ukraine. Despite the calls by the OSCE Chairmanship, the Office for Democratic Institutions and Human Rights (ODIHR) and a number of participating States, the Ukrainian Government continues to systematically disregard its OSCE commitments. As you are aware, paragraph 8 of the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE stipulates that “The participating States ... invite observers from any other participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law.”

Despite this, on 20 March the Central Election Commission of Ukraine refused to provide accreditation for 24 short-term observers – Russian citizens – for the ODIHR mission. The official pretext for this discrimination was the Law on the Election of the President of Ukraine, to which amendments had been hastily introduced in February preventing Russian citizens from monitoring elections. Moreover, this was deliberately done ahead of the election, when the ODIHR mission was already in the process of being deployed to Ukraine. It is clear that the Ukrainian Government tried hastily to “adapt” its legislative framework to a strictly political decision.

However, the Ukrainian authorities did not take account of one fact. This “basis” cannot be considered legitimate with regard to the current election. According to the principles adopted in democratic legal systems, any law extends only to events occurring after its entry into force, and by default has no retroactive effect. This, incidentally, is enshrined in Article 58 of the Constitution of Ukraine, which states that “laws and other normative legal acts have no retroactive force”. The law in question was adopted by the Verkhovna Rada on 7 February 2019, and the invitation from the OSCE was sent to the participating States of the Organization on 21 December 2018, in other words prior to the adoption of that law.

Accordingly, Ukraine invited the ODIHR to organize the monitoring of the election one and a half months before the restrictions regarding Russian observers came into force, in other words under completely

different legal conditions. The Ukrainian Government's steps can therefore be considered *de jure* null and void.

The OSCE Chairperson-in-Office, Miroslav Lajčák, expressed his concern at this situation in a telephone conversation with the Minister for Foreign Affairs of Ukraine, Pavlo Klimkin. According to a press release, he expressed "his deep regret about the passing of a law that would deny accreditation to international observers" and reminded his Ukrainian counterpart that "observers sent to take part in the ODIHR's election observation missions represent the Organization, not their respective countries".

The ODIHR Director, Ingibjörg Sólrún Gísladóttir, also unequivocally set out her position regarding the Ukrainian Government's actions, emphasizing that "the decision to deny the possibility of accreditation to citizens of one participating State is without precedent and contravenes commitments made by OSCE participating States". In addition, the head of the ODIHR observer mission in Ukraine, Peter Tejler, noted that Ukraine's measures regarding Russian observers were not in conformity with the provisions of basic CSCE/OSCE decisions.

Furthermore, as we have already said, millions of Ukrainian citizens will be deprived of the right to vote in the forthcoming election. With its decision not to set up polling stations at its diplomatic missions in Russia, the Ukrainian Government is showing blatant discrimination and violating the constitutional rights of Ukrainian citizens living in our country. The electoral rights of the inhabitants of Donbas are also being infringed, not to mention internally displaced persons, whose registration as voters is dependent on complex bureaucratic formalities. Their plight and often disenfranchised situation in the rest of Ukraine can clearly be seen from the reports by the Office of the United Nations High Commissioner for Refugees.

Foreign journalists are also becoming hostages to the political games surrounding the election. As it turns out, the Ukrainian Government can refuse them entry to the country simply on suspicion of "ties with Russia". For example, on 24 March the Italian journalist Marc Innaro and his camera operator colleague, who both work at the Moscow office of the Italian national public broadcasting company RAI, were denied entry to Ukraine. This incident has already been condemned by the OSCE Representative on Freedom of the Media, Harlem Désir.

The interim report by the ODIHR mission also mentions a number of serious violations by the Ukrainian Government of its election-related commitments and human rights standards.

All this calls into question the legitimacy of the results of the forthcoming election.

The Ukrainian authorities' actions not only represent a gross violation of Ukraine's election-related commitments, but also set an extremely dangerous precedent for OSCE election monitoring in general. The shameful practice of selectively prohibiting the participation of observers in election monitoring on national or political grounds, which is taking place before our eyes, may become entrenched in the OSCE area if it does not receive an appropriate response. This will result in the undermining of trust in the Organization and its institutions. You can draw your own conclusions.

We call on the Slovak OSCE Chairmanship, the ODIHR Director and the participating States to give a principled assessment of the Ukrainian Government's illegitimate actions. We trust that the Office will be able to provide the international community with an objective picture of the results of the forthcoming election, without giving in to pressure from the Ukrainian authorities and their sponsors.