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OSCE

High Commissioner
on National Minorities

His Excellency
Mr Hennady UDOVENKO
Minister for Foreign Affairs of Ukraine
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Dear Mr Minister,

On 20 - 22 September I attended the OSCE Round Table in Yalta on "Reintegration of Deported Peoples in Crimea". Participants included representatives of your Government and of the Government of the Autonomous Republic of Crimea (ARC), representatives of the Ukrainian Parliament and of the Parliament of the ARC, and representatives of the Crimean Tatars and other population groups deported from Crimea during the Second World War. The discussions gave a clear insight into the various aspects of this complex matter. It is obvious that the solution of the question of the resettlement and reintegration of the people deported from Crimea requires a considerable financial effort on the part of your Government and of the Government of the ARC. However, as President Kuchma pointed out last June, it will be necessary to supplement these efforts with considerable international assistance. Taking this into account, I have approached a number of governments which might be in a position to help, urging them to consider assistance. I also expressed the hope that in the CIS context assistance will be provided.

Apart from the financial aspects, there are, however, other important facets of the problem of the returnees which deserve urgent attention. Your Government recognized this by deciding on 11 August last to set-up an inter-ministerial committee charged with preparing a programme of concrete steps towards this solution.

In the light of the various elements of this decision and the discussions during the Yalta Round Table I should like to make the following comments and recommendations :

1. It would in my view be desirable to transform the inter-ministerial committee, once it has completed its tasks, into a permanent high-level committee, composed of representatives of various Ministries of Ukraine, representatives of the partners in Crimea dealing with resettlement of returnees, representatives of the Crimean Tatars to be appointed by the Mejlis, and, as appropriate, representatives of other deported peoples. The task of this committee could be to make recommendations regarding such issues as resettlement, land allocation and the creation of more employment opportunities for returnees. In addition it would have to study ways and means to ensure a more orderly return process for those in Uzbekistan and other states in Central Asia who want to come to Crimea.

2. One of the most urgent questions to be settled is the problem of facilitating the acquisition of Ukrainian citizenship for returnees. At present tens of thousands of those who have returned have not yet been able to acquire citizenship of Ukraine. One of the options which might be worthwhile to consider is that persons who can demonstrate that they are descendants of those who were deported to Central Asia during the Second World War will be granted Ukrainian citizenship if they sign a declaration renouncing the citizenship of the states they have left. Such a declaration could then be sent to the competent authorities of the state concerned.

3. Another question is the problem of fixed representation of Crimean Tatars in the Parliament of the Autonomous Republic of Crimea. My recommendation would be to continue the present quota system as long as the present electoral law of Crimea remains in effect. Under the present electoral system, the Tatars, who are dispersed over the whole of Crimea, might even end up with having no representation at all, notwithstanding the fact that they constitute nearly 10% of the population of Crimea. On the other hand, a continuation of the quota system would not be justified if an electoral system will come into being which would give them a near certainty of having a representation broadly commensurate to their percentage of the total population of Crimea.

4. Regarding the status of the Mejlis, it is in my view necessary to take into account that in the period between sessions of the Kurultai the Mejlis acts as the supreme representative college of the Crimean Tatars. It is seen as the guardian of the identity of the Tatars. Against this background, it would in my view be very much in the spirit of the OSCE Copenhagen Document if the Mejlis would be given specific responsibilities regarding revival and development of Tatar culture and Tatar schools. It would also be necessary to secure some funds

enabling the Mejlis to carry out these tasks. As I mentioned under 1., the Mejlis could also be asked to designate the representatives of the Crimean Tatars in the tripartite high-level committee.

During my visit to Ukraine in September, I also had the opportunity, both in Kyiv and in Simferopol, to discuss a number of questions regarding the Crimean Constitution. In the light of these discussions and the text of the new draft of the Constitution adopted by the Crimean Parliament on 21 September 1995, I should like to make the following comments and recommendations :

1. In the recommendations I made after the OSCE Round Table in Locarno on 15 May of this year, I made the remark that the law of Ukraine on the demarcation of powers between the organs of state powers of Ukraine and of the Republic of Crimea of 30 June 1992, even though it did not enter into force, contained some important elements for the solution of the problems which have arisen concerning the Constitution of the ARC. In this context I referred, i.a., to Articles 3 and 11 of this law which summarize the competencies reserved for the ARC and for the state organs of Ukraine.

2. Article 11 of the law quoted above mentions, i.a., defence, the armed forces and foreign policy as matters within the exclusive competence of the state organs of Ukraine. In my view this corresponds to the usual division of powers between the organs of a central government and those of an autonomous republic. I would recommend, however, that the ARC, taking into account the Ukrainian legal order, will have the right to conclude international agreements regarding commercial and cultural questions, and that it will have a right to open trade offices abroad. Ukraine might also commit itself to consult the ARC before concluding treaties of special relevance for Crimea. Similarly, representatives of Crimea could be included in a number of official delegations to other states.

3. On the subject of citizenship it is my view that there would be no need to stipulate a Crimean citizenship in addition to Ukrainian citizenship for the residents of Crimea, because, according to my understanding of the text of the Crimean Constitution adopted on 21 September last, the only right deriving from such citizenship would be the right to vote in the Crimean elections - a right which the residents of Crimea will have anyway. Moreover, citizenship is another subject which, according to Article 11 referred to above, is reserved for the state organs of Ukraine. I would therefore recommend to delete references to Crimean citizenship from the Constitution of the ARC.

4. In my recommendations of 15 May of this year I referred to the need to start negotiations between the central authorities of Ukraine and those of the ARC on questions relating to the division of property in Crimea. In the light of subsequent events, I should like to add that in my view arrangements will have to be made to ensure that an equitable portion of the revenues of Ukrainian property in Crimea and of the natural resources of Crimea will be used for the benefit of Crimea.

5. According to the Ukrainian Constitution, Sebastopol has a special status. On the other hand, Sebastopol and the other parts of Crimea have many interests and problems in common, especially regarding economic questions and environmental problems. The Crimean Constitution, adopted on 21 September last, foresees a treaty between the ARC and Sebastopol. Also taking into account my comments on the subject of treaties under 2. above, I would suggest an alternative solution. A tripartite commission, composed of representatives of Ukraine, the ARC and Sebastopol, could be set up which would have as a task to come forward with proposals for intensifying the collaboration between Sebastopol and the ARC in various fields.

I express the hope, Mr Minister, that these comments and recommendations can be of some help in solving the problems which the OSCE Round Tables of Locarno and Yalta have been discussing. I take the liberty of asking you whether you would be willing to send my remarks to the Government of the ARC, the Ukrainian Parliament and the Parliament of the ARC for their information. I am, of course, at the disposal of Ukraine if I can be of any further help in solving the problems which were the subject of the OSCE Round Table discussions in Locarno and Yalta.

Yours sincerely,

[signature]
Max van der Stoep
OSCE High Commissioner
on National Minorities

Unofficial translation

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Sir,

Let me express your sincere gratitude for the active participation in "the round table" in Yalta on 20-22 September this year which resulted in attracting attention of the international community to the complex of problems related to the return and settlement of the deportees as well as the determination of further steps in this direction. We highly appreciate your personal efforts aimed at the mobilization of possible sources of international financial support in the solution of this issue.

With satisfaction I have received the information that your latest visit to Ukraine gave you the possibility to once again inform the OSCE Permanent Council of the consistent policy of the central authorities of Ukraine as regards the above-mentioned issue. Immediately after the reception of your letter which contained summaries of "the round table" in Yalta as well as commentaries and recommendations concerning the new draft Constitution of the Autonomous Republic of the Crimea, its translation was sent to the President of Ukraine, the Chairman of the Supreme Rada of Ukraine,

the Prime Minister of Ukraine as well as to the Chairman of the Supreme Council and the Prime Minister of the Autonomous Republic of the Crimea.

The assessments and recommendation stated in your letter are being studied by the relevant institutions of Ukraine, including your proposals as to the expedience of establishing a special body which would be engaged in problems of settlement of the deportees, improvement of the process of acquisition of the citizenship of Ukraine by them, provision of the representation of the deported citizens in the Supreme Council of the Autonomous Republic of the Crimea and co-operation with the Mejlis of the Crimean Tatar people.

At the same time, it should be noted that, in our conviction, the solution of these issues should be based namely on the criterion of belonging of relevant persons to the category of deportees rather than to one or another ethnic group. The latter, in our opinion, may create an undesirable precedent in the aspect of development of the constitutional system of Ukraine.

His Excellency
Mr. Max van der Stoep
OSCE High Commissioner
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In this context I would like to once again emphasize that we have inherited the problem of deportees from the former USSR. Therefore the top priority step in its solution should be speeding-up the ratification of the Agreement on Issues Related to Renewal of Rights of Deported Persons, National Minorities and Peoples, signed in Bishkek in 1992 by the states, in the territory of which they reside. This will contribute to the creation of appropriate conditions for working out a relevant legislative basis. Determination of a legal status of deportees, regulation of the process of their return and settlement, coordination of financial and organizational efforts of different states.

As to the text of the new draft Constitution of the Autonomous Republic of the Crimea, we consider as especially important your argued conclusion concerning inadvisability to include the provisions in respect of the so-called "Crimean citizenship"..... The idea of special citizenship for residents of one or another region of the state does not only correspond to the Constitution of Ukraine and international practice but is also deprived of concrete contents.

We also studied with interest your recommendations concerning delimitation of competence between the central bodies of the state power in Ukraine and authorities of the ARC, and issues of property division in the Crimea, as well as the proposal to establish a trilateral commission composed of representatives of the authorities of Ukraine, ARC and Sebastopol, the task of which would be the development of

proposals as to solution of practical issues on interaction between Sebastopol and ARK in different fields.

In conclusion I would like once again to thank you for your personal contribution to the matter of the settling of the situation around the ARK, as well as to assure you that Ukraine will continue to conduct the policy aimed at securing lawful rights and interests of all its citizens, and inadmissibility of aggravation of the situation.

Please accept, Mr. High Commissioner, the assurances of my highest consideration.

H. Udovenko