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The HCNM in Ukraine: Conflict Prevention in a Divided Society

Ukraine's post-Soviet transformation, which has taken place in a difficult foreign-policy environment and despite complex ethnopolitical divisions and tensions, has so far not been marred by violent conflict. This achievement of the country and its people is deserving of great respect. The OSCE High Commissioner on National Minorities (HCNM) has been active in Ukraine since 1994. His ongoing work has sought to support the largely peaceful management of ethnopolitical problems and conflicts and to help in avoiding the escalation of existing tensions.

On the whole, the political leadership in Ukraine, both central and regional, has tended to co-operate constructively with the HCNM while respecting the autonomy of this OSCE institution, even if there have been radically different points of view on numerous specific issues. The High Commissioner's written recommendations – the heart of his political work – have been taken note of by Kyiv, and have occasionally triggered wide-ranging political discussions. As is only to be expected, Ukrainian politicians and diplomats have at times attempted to instrumentalize the HCNM for their own foreign or domestic political goals and to interpret his recommendations in a partial or distorted way. Furthermore, there is occasionally a sense in Ukraine that the HCNM's engagement, and the presence of the OSCE in general, carry a stigma. This has, however, not restricted the High Commissioner's freedom of action.

While the HCNM has been continually active, Ukraine is a remarkable and rare case of a country where two conflict issues have been largely resolved over time to the extent that the High Commissioner could end his engagement with them. The first of these is the key political dispute of the 1990s on the status of the Crimean peninsula. A comprehensive analysis of the role of the first holder of the office, Max van der Stoep, undertaken as part of an international research project, concluded that the active engagement of the HCNM, which was expressed in, for instance, numerous visits, written recommendations, and the organization of confidential round tables, had a crucial impact on events in the conflict between Kyiv and Simferopol. The final regulation of the status of Crimea was largely based on the recommendations of the High Commissioner.¹ The second issue that was largely re-

Note: The views contained in this contribution are the author's own.

¹ Cf. Volodymyr Kulyk, *Revisiting a Success Story: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Ukraine, 1994-2001*, Centre for OSCE Research, Institute for Peace Research and Security Policy at the University of Hamburg, Working Paper 6, 2002, p. 69.

solved in the second half of the 1990s with the support of the HCNM was that of securing Ukrainian citizenship for Crimean Tatars returning to the peninsula. The close collaboration between the HCNM and the UN High Commissioner for Refugees (UNHCR), whose Ukrainian office continues to work on this issue, proved particularly fruitful.

In recent years, the High Commissioner has been actively involved in three areas, in particular: language policy and minority rights in Ukraine, interethnic relations in Crimea, and, to a limited extent, minority issues in Ukrainian-Romanian relations. These topics are dealt with in detail below. The HCNM has also monitored other ethnopolitical questions, such as the situation of the Hungarian minority, the Roma, and the Ruthenians, but has done little to actively intervene.

Language Policy and Minority Rights in Ukraine

In Ukraine there is no “classical” conflict between the Ukrainian majority and the Russian minority. Ukrainian society is highly heterogeneous, with overlapping ethnic, linguistic, cultural, regional, and political distinctions. Overall, the country is deeply divided, as was particularly evident in the Orange Revolution of 2004. National elections during the last decade have well documented this divide, which is unusual on account of the stable and clearly defined geographic split it reflects: Voters in the west and centre of the country regularly voted for one political camp; voters in the east and south supported the other; close results were almost unknown. It appears that the populations of the two halves of the country have different beliefs and values. Ethnicity and language play a role in this but are not by themselves decisive.

The divided nature of Ukraine can be schematized as follows:

- In the largely Ukrainian-speaking west and centre, ethnicity is highly significant. Ukraine is considered to be the national state of the ethnic Ukrainians. After the suppression of Ukrainian language and culture during Tsarist and Soviet times, the strengthening of the national language and achieving a cultural renaissance are seen as important goals for both the Ukrainian nation and the state. This goes hand in hand with the desire to reduce the dominance of Russian. Politically, Ukraine is viewed as a European state that should aim for closer ties with the EU and keep its distance from Russia.
- In contrast, the largely (but by no means exclusively) Russian-speaking east and south of Ukraine considers the country to be a multicultural state in which Ukrainians and Russians are twin constituent nations with fundamentally equal rights. There is an imperative to preserve the close historical links between the two cultures (“Slavic brotherhood”). While the Ukrainian language and Ukrainian culture should be strengthened,

this should by no means be to the detriment of Russian. Slavic brotherhood also makes demands on foreign policy, namely in maintaining close friendship with Russia.

This divide produces a fundamental tension in Ukrainian society and creates a considerable potential for conflict, not least in view of Ukraine's difficult relations with its giant neighbour. So far, however, it appears highly unlikely that Ukraine could break up, especially since the two competing mentalities apply to the country as a whole and not to the two halves, to which there are effectively no special bonds or loyalty.

For many years, a certain balance was maintained between the two camps. However, this left both sides dissatisfied: the one because there was little progress towards Ukrainization in public administration, the media, and the private sector, the other because they feared precisely such Ukrainization, following the partial reversal of the Russification that the education sector had been subject to in Soviet times. Under President Viktor Yushchenko, this balance was severely damaged by a number of measures and initiatives that aimed at broad Ukrainization and a loosening of bonds with Russia. These excessively anti-Russian policies probably played a decisive role in securing victory in the presidential election for Viktor Yanukovich, whose presidency has seen Ukraine take an equally excessive pro-Russian turn.

As High Commissioner, Max van der Stoep recognized the countrywide conflict potential in Ukraine, while concentrating his attention largely on the conflict over Crimea. On the language question, he issued a set of recommendations in 1994, and only returned to this topic towards the end of his term in office: After carrying out a survey, in collaboration with independent experts, of the rights of the Russian minority in Ukraine and the Ukrainian minority in Russia in the field of education in 2000, van der Stoep gave separate detailed recommendations to both the Ukrainian and the Russian governments on this question.

In recent years, the language question and legislation relating to minorities in Ukraine have become central to the HCNM's political work. As well as holding confidential discussions and writing letters, the current High Commissioner, Kurt Vollebæk, presented his general assessments and recommendations on these issues in a speech made in November 2008.² Here he made the case for the HCNM's usual approach of integration with respect for cultural and linguistic diversity. Specifically he stressed, on the one hand, the right of Ukraine to promote the long-suppressed Ukrainian language and culture in public life and to strengthen its role as an instrument for the inte-

2 See: Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, *Integration with Respect for Diversity: A Prerequisite for a Nation's Progress*, Opening Address by Kurt Vollebæk, OSCE High Commissioner on National Minorities, to the Conference on Ukrainian Ethnic Policy, organized by the State Committee on Nationalities and Religion, Kyiv, 5 November 2008, at: <http://www.osce.org/hcnm/34904>.

gration of the whole society, as well as the right – and the responsibility – of minorities to learn the official state language, thereby to facilitate their equal participation in social, political, and economic life. At the same time, the High Commissioner warned against using forceful means to squeeze out minority languages and issued a reminder of the need to protect the rights of minorities. The first part of this message was clearly directed primarily at the pro-Russian camp, which at times regards the compulsory teaching of Ukrainian as less a sensible integration mechanism than an injury to the rights of Russian speakers. The second message, by contrast, addressed above all Ukrainian nationalists who would like to ban or strictly limit the use of Russian in as many public spheres as possible.

The HCNM's engagement has concentrated on the adoption of a new law on languages (1), on the general legislative framework for minority protection (2), and on the area of education (3). He has also given recommendations on regulations concerning the use of languages in electronic media and in the judicial system (4).

1. During Yushchenko's presidency, various efforts were made to replace the obsolete law on languages of 1989 with a comprehensive amendment. Drafts were prepared both by members of the *Verkhovna Rada* (Ukrainian parliament) and the executive. However, a number of political actors and experts spoke out against any new legislation, which they believed would further politicize the sensitive language question. The High Commissioner advocated modernization of the languages law in principle, yet differences of opinion and unstable majorities made legislative progress impossible.

This changed with the election of Viktor Yanukovich: In September 2010, three parliamentarians introduced a comprehensive draft law on languages, which was believed to have a good chance of being adopted. The Chairman of the *Verkhovna Rada*, Volodymyr Lytvyn, a critic of the proposed law, officially requested the High Commissioner to prepare an opinion on it. The HCNM's comprehensive and, as always, confidential opinion, issued in December 2010, was rapidly leaked to the public.³ This led to a major public debate, as he described the draft law as lacking balance. He justified his opposition on the basis that the draft law would strengthen the role of Russian in far-reaching ways, effectively granting it a dominant position over both Ukrainian, which would remain the official language in name only, and other minority languages. According to the HCNM, this endangers the goal of integrating the whole society and the long-term stability of the country. Not long afterwards, a statement by the Venice Commission of the Council of Europe backed up this position by making very similar arguments.⁴ These

3 A Ukrainian translation is available on the website of the *Verkhovna Rada*, at: http://portal.rada.gov.ua/rada/control/uk/publish/article/news_left?art_id=235755&cat_id=37486.

4 Cf. European Commission for Democracy through Law (Venice Commission), *Opinion on the Draft Law on Languages in Ukraine*, Strasbourg, Opinion no. 605/2010, CDL-

statements were heavily criticized by the Party of Regions camp, yet two members of that party's group in parliament introduced a new draft of a "Law on the Principles of the State Language Policy" in August 2011, claiming that they had taken on board nearly all the comments of the High Commissioner and the Venice Commission. Nonetheless, the new draft, identical in large parts with the old one, was not approved by either international institution. As a consequence, the pro-Russian camp mobilized 120 "non-governmental" organizations, who, in an open letter of April 2012 – obviously written by the authors of the draft law itself – called for the dismissal of Knut Vollebæk from his office as High Commissioner.⁵ In the meantime, without consideration of the national and international criticism, the law was adopted by the *Verkhovna Rada* after its second reading in July 2012 and signed by the president on 8 August 2012. The High Commissioner had issued a press release on 26 July, in which he warned that the law was likely to increase the polarization of Ukrainian society and could undermine the integrity of the country.⁶

2. The High Commissioner's involvement in the area of minorities legislation took fewer dramatic turns. This is another case where Ukraine faces the need to overhaul an obsolete and multiply contradictory legislative framework and adapt it in line with international standards. The High Commissioner has issued several opinions on various drafts of a new minorities law and has called for the rapid adoption of new legislation as a matter of urgency. From the point of view of the HCNM, the law should create a framework for the totality of minority-related legislation, including provisions concerning the use of minority languages in public life. For that reason, the High Commissioner has recommended that laws on minority protection and minority languages be passed as near to simultaneously as possible and coordinated with each other. Nonetheless, almost no progress has been made in the last ten years, as neither of the main political camps considers minority law to be a priority. It appears that the politically loaded language question stands in the way of an objective discussion of minority rights and minority integration.

3. The high point of the Ukrainization efforts of President Yushchenko's governments coincided with the low point so far in bilateral Ukrainian-Russian relations. In these circumstances, the High Commissioner resolved to follow up the above-mentioned survey of Ukraine and Russia by re-examining the situation of the Russian minority in Ukraine and the

AD(2011)008, 30 March 2011, available at: <http://www.venice.coe.int/docs/2011/CDL-AD%282011%29008-e.pdf>.

5 The text of the letter is available in Russian and English at: <http://www.r-u.org.ua/akt/7058-news.html>.

6 Cf. Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, *OSCE High Commissioner on National Minorities urges dialogue and compromise on 'divisive' language law in Ukraine*, Kyiv, 26 July 2012, at: <http://www.osce.org/hcnm/92418>.

Ukrainian minority in Russia in the field of education. This was intended to clear the way for constructive and fact-based dialogue between the two states on this topic. As a result of the survey, which was again put together with the help of international experts and carried out in the spring of 2009, the HCNM presented separate detailed findings and numerous concrete recommendations to each government. The key areas it dealt with were language and intercultural teaching in curricula, external final examinations in language subjects, the choice of language of instruction, and information provision and consultation with minorities in the area of education. In principle, the recommendations were received positively by both governments and commented on in detail. Parts of the two 16-page reports were published on various websites in Russia and Ukraine, including intentional⁷ and unintentional errors. Vollebæk himself released a ten-minute video message with comments summarizing the survey.⁸

However, the discussion and dialogue on the two surveys that the High Commissioner had planned never took place, as the change of government following the presidential election in Ukraine in early 2010 fundamentally altered relations between Ukraine and Russia, and considerably reduced the potential for bilateral conflict over the minorities question. Nonetheless, most of the problems with the implementation of minority rights in the field of education in Russia and Ukraine that the HCNM detailed in his reports remain. The High Commissioner's 2009 recommendations have lost little of their relevance and urgency.

4. As in education, efforts promoting Ukrainization of the media sector under President Yushchenko also objectively and subjectively threatened minority language rights and increased the potential for conflict. These included the disproportionately strict language requirements imposed on private broadcasters, who were required to programme a majority of their output in Ukrainian, as well as the requirement that cinemas dub or subtitle all non-Ukrainian-language films. The High Commissioner watched these developments carefully and issued written recommendations to the Ukrainian leadership on several occasions. Here, too, the change of government led to fundamental changes in the corpus of laws, their application, and the political context.

Interethnic Relations in Crimea and the Integration of the Crimean Tatars

The political and social integration of the Crimean Tatars in Ukrainian society on the Crimean peninsula remains one of the greatest challenges facing

7 For instance, the Russian website Materik replaced the expression "Russian minority" with "Russian-speaking minority" throughout, see "Sekretnye materialy" ["The X-Files"], 21 December 2009, at: <http://www.materik.ru/rubric/detail.php?ID=8113>.

8 See Organization for Security and Co-operation in Europe, *Address by the High Commissioner on National Minorities*, at: <http://www.youtube.com/watch?v=HbCuYWjfgVA>.

the country. In view of the domestic and foreign policy context, this issue contains considerable potential for conflict and has thus rightly been one of the High Commissioner's priorities for almost two decades.

Since the late 1980s, some 260,000 Crimean Tatars, together with a smaller number of members of other formerly deported ethnic groups, have returned to Crimea. The region not only had to deal with the difficult economic transformation that followed the break-up of the Soviet Union, but was also far from ready for such a large and rapid wave of immigration. Conflicts over resources, jobs, and vested social and political rights were played out against a background of deeply rooted stereotypes about Crimean Tatars and prejudice cultivated over decades. Many inhabitants of the peninsula feel themselves to be the victims of discrimination and injustice. Crimean Tatars tend to be particularly disappointed at the lack of progress in resolving pressing problems such as the allocation of building land, the promotion of the Crimean Tatar language and culture, regulation of the legal status of formerly deported peoples, economic opportunities, and the representation of the Crimean Tatars in politics and public administration. Impatience and dissatisfaction are growing among the Crimean Tatar population. Extremism, including pan-Russian nationalism, and Islamic fundamentalism are fringe occurrences so far, but contain additional conflict potential.

The land issue is one of the most intractable problems, and a solution has been sought for years in vain. The lack of a legal framework, economic mismanagement, and corruption mean that the Crimean Tatars have suffered long-term disadvantages in terms of the allocation of land, which itself increases the trend towards illegal occupation. Although Ukraine has undertaken a political obligation to accept the Crimean Tatars and members of other formerly deported peoples, there has still been no legal ruling on the status and rights of formerly deported persons and their descendants. The Crimean Tatars have been particularly badly affected by the arbitrariness and nepotism that are widespread among local and regional authorities.

However, the rest of the population of the region have a very different view of the Crimean Tatars, seeing them as a group that receives unjustifiably preferential treatment from the Ukrainian government. Organized pro-Russian forces such as the Russian Community, "Cossacks", and others increase the tension and cultivate anti-Muslim sentiment in an effort to sustain the cultural, political, and economic dominance of ethnic Russians in the region. Radical pro-Russian organizations often receive financial, political, and media support from the motherland. Finally, the refusal of many Russians to integrate into Ukrainian society and their latent separatist tendencies contribute to Crimea's dangerous "cocktail of problems". Separatist aspirations grew during Viktor Yushchenko's presidency in particular, but do not currently pose an acute threat.

Relations between the political leadership of the Crimean Tatars, whose key formal manifestation is the *Mejlis*, an elected permanent governing body

of the Crimean Tatar People, and regional powers are prone to fluctuation and hence often fraught with tension. The Crimean Tatars are a largely independent power bloc that cannot easily be controlled by the ruling factions and oligarchs. Their relatively tight-knit nature and organizational discipline are a political resource that the *Mejlis*'s leadership frequently deploys with skill.

The High Commissioner has visited Crimea regularly in recent years. He has discussed the full range of pressing unanswered questions relating to interethnic integration both there and in Kyiv. It may be assumed that the mere presence of the HCNM and his intensive monitoring of developments have a certain moderating effect on the conflict parties in the region and deter them from taking certain radical measures. The High Commissioner is convinced that the conflicts and other problems can only be resolved if the governments take a strategic approach, whose key pillars would be protecting the minority rights of all groups in Crimea, supporting the formerly deported peoples who have returned to their historical homeland, and integrating the peninsula into Ukrainian society. As well as holding numerous confidential discussions, the High Commissioner has also made several assessments and recommendations in public lectures and interviews,⁹ which have generally been widely reported in the Crimean media.

The High Commissioner has paid a great deal of attention to the issue of language teaching and language use in the field of education. The above-mentioned 2000-2001 survey included a detailed analysis and recommendations for action for the Crimean government on the role of the Ukrainian and Russian languages at all levels of education. With the help of independent experts, the High Commissioner also undertook a detailed examination of the situation and problems in the development of Crimean Tatar language teaching and discussed various aspects with those responsible. Further key areas of the High Commissioner's work were questions concerning the construction of a Grand Mosque in Simferopol, the political representation of the Crimean Tatars in public administration and elected offices, and the land question. In November 2008, the HCNM organized a conference in Simferopol dedicated to the challenges of policing the multiethnic Crimea. The High Commissioner used this opportunity to present his "Recommendations on Policing in Multi-Ethnic Societies".

The HCNM believes that there is an urgent need for the adoption of a legal framework for the formerly deported peoples, whose definition, status, and rights require immediate clarification. An act to officially recognize the injustice they have suffered, their rehabilitation, and to grant symbolic and – where practical and reasonable – material reparations is also urgently re-

9 See, for instance, the following speech: Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, *The Power of Partnership: Police and Minorities in Crimea*, Opening Address by Knut Vollebæk, OSCE High Commissioner on National Minorities to the conference "Modernizing Police and Promoting Integration: Challenges for Multi-Ethnic Societies", Simferopol, Ukraine, 6 November 2008, at: <http://www.osce.org/hcnm/34901>.

quired. During the more than twenty-year history of the return of formerly deported peoples to Crimea, there have already been several unsuccessful attempts to introduce legislation on “restoring the rights of formerly deported persons”. In 2004, after a difficult process of compromise, the *Verkhovna Rada* succeeded in passing a law – introduced by the *Mejlis* – to this effect on the second reading, but President Leonid Kuchma blocked it with his veto. Perhaps this was an attempt by the president to avenge himself on the leaders of the *Mejlis*, who had already signalled their support for Yushchenko at the start of the campaign for the 2004 presidential election.

In 2008, the Ukrainian government presented a new draft law seeking to resolve these matters. However, not only did it strongly water down the original intentions, it was also likely, in the HCNM’s view, to endanger what had been achieved so far and to increase tensions in Crimea. Against this background, the HCNM convened a confidential round-table discussion in Kyiv in July 2009, with the participation of representatives of the government, the presidential secretariat, the *Verkhovna Rada*, the Crimean Tatars, and a number of independent experts. The EU Delegation, the Council of Europe, and the United Nations High Commissioner for Refugees (UNHCR) were also represented, not least for their ability to explicate existing international standards in the areas of minority protection, rehabilitation, and restitution/compensation. Building on the results of this round table, the High Commissioner presented the Ukrainian government with detailed recommendations on the key principles and detailed content of legislation to restore the rights of formerly deported persons and their descendants. Shortly thereafter, the government withdrew its draft law, thus clearing the way for a legislative fresh start. In early 2010, Mustafa Jemilev, a member of the *Verkhovna Rada* and Chairman of the *Mejlis*, submitted a new draft law, which was more closely modelled on the bill that had already been adopted in 2004 and on the HCNM’s recommendations, and which the High Commissioner supported in principle. A key partial success was achieved on 20 June 2012, when the *Verkhovna Rada* adopted a revised version of this bill after a single reading.

The HCNM’s engagement in Crimea does not only consist of his political work, but also encompasses concrete projects. For several years, he has supported a highly successful project that focuses on training members of local and regional administrations, elected officials at all levels, and representatives of NGOs, religious communities, and cultural organizations to master the challenges of interethnic coexistence. Particular attention has been paid to enabling intercultural awareness and tolerance in the participants’ specific areas of activity. One series of modules within the project focused on the special situation of the police and interior ministry officials, thus, in a way, applying the HCNM’s recommendations on policing to concrete situations. The overall goal of the project is to “immunize” key actors in society against the perennial tendencies towards intolerance, radicalization, and extremism.

Another project that the High Commissioner has supported for many years is a course developed by local experts from various disciplines on the “Culture of Good Neighbourhood”, which aims to encourage tolerance and interethnic understanding among the younger generation. Here, too, a key consideration is to counter xenophobia and intolerance and, in this way, to make a lasting contribution to conflict prevention. Within the scope of this project, teaching materials were developed for all stages of primary and secondary school, preschool, and university. The course is offered as an optional subject at numerous schools in Crimea and has been enthusiastically taken up. The projects’ instigators received the Max van der Stoep Award in 2009.

Minority Issues in Romanian-Ukrainian Relations

In 2006, the governments of Romania and Ukraine agreed to carry out joint monitoring of the Ukrainian minority in Romania and the Romanian minority in Ukraine. The HCNM and the Council of Europe – in the form of the Secretariat of the Framework Convention for the Protection of National Minorities – were invited to participate in this monitoring project as observers. The background to this initiative were increasing tensions in bilateral relations and, in particular, allegations by Romania that Ukraine had violated the rights of its Romanian minority.¹⁰ The intention was to send joint missions of experts for one week each to three areas in each country, where they would visit centres of administration, key facilities such as schools and universities, and villages with a high concentration of minorities. The plan was for the delegations to interview representatives of both the authorities and minority communities, as well as independent experts. Both sides were to have a say in selecting which villages to visit. The monitoring missions were also to complete a comprehensive questionnaire drawn up by a bilateral government commission. This questionnaire was to enable the qualitative and quantitative evaluation of the satisfaction of the rights of the respective minorities in each country. It was based on the catalogue of rights of the Council of Europe’s Framework Convention.

The High Commissioner praised the agreement to carry out joint monitoring on several occasions as a good example of bilateral co-operation, encouraging both sides to carry out the project constructively. Two advisors from the HCNM and one representative of the Council of Europe participated in each mission. It rapidly became clear, however, that the two sides would not only act on the basis of good intentions, but would use the monitoring to pursue their own interests and impose their respective points of view. During

10 Tadeusz Iwański is one of the few scholars to study this conflict, cf. Tadeusz Iwański, *Ukraine – Romania: a sustained deadlock*, OSW Commentary No. 68, 30 December 2011, at: <http://www.osw.waw.pl/en/publikacje/osw-commentary/2011-12-30/ukraine-romania-a-sustained-deadlock>.

the first two monitoring missions to Chernivtsi (Ukraine) and Suceava and Botoșani (Romania) in the autumn of 2006, the co-operation between the two sides was still largely constructive. Yet already in the next set of missions, to Maramureș (Romania) and Transcarpathia (Ukraine) in 2007, the atmosphere deteriorated noticeably. Finally, in the autumn of 2008, the joint mission to Ukraine's Odessa Oblast was abandoned before it could be completed, when the Romanian delegation left the country; the planned final monitoring mission to the Romanian district of Tulcea did not take place.

One factor that is damaging to the dialogue is the view, pervasive in Ukraine, that Romania should grant its Ukrainian minority the same rights and opportunities enjoyed by the Romanian minority in Ukraine. Holders of this view cite the large number of Romanian-language schools in Ukraine compared to the general lack of equivalent establishments in Romania. This "quid pro quo" perspective ignores the principle of minority protection, according to which every state is obliged to protect minorities present on its territory and to ensure that their circumstances are adequate – regardless of the situation in neighbouring countries. In reality, the historical and ethno-demographic context of Ukrainians in Romania – low absolute and relative population levels, marginalization and assimilation during the socialist dictatorship – is not comparable with the situation in Ukraine, where a large, self-confident, and well-organized Romanian minority enjoys extensive opportunities for linguistic and cultural development.

However, the central minority-related problem in Ukrainian-Romanian bilateral relations is Romania's categorical refusal to recognize the existence of a separate Moldovan ethnic group or identity. In Bucharest's view, Moldovans are part of the Romanian nation. Romania believes that it has the responsibility to protect the human and minority rights of this community, and accuses Ukraine of continuing the Soviet policy of manufacturing a Moldovan nation. This position evidently reflects the desire for a unified Greater Romanian nation. The logic of this view rests upon the possibility that official recognition by Bucharest of a Moldovan nation independent of the Romanian nation could be misconstrued as "de-romanianizing" the population of the historical region of Romanian Moldavia, which is located within eastern Romania. Irrespective of this, this position clearly contradicts both the basic principles of minority rights and the self-identity of significant numbers of people, particularly in Odessa Oblast, where only 700 Romanians lived according to the 2001 Ukrainian census, but nearly 124,000 Moldovans. Abandoning the monitoring mission to Odessa Oblast was the only way for Bucharest to ensure that the local population were not granted quasi-official recognition of their separate Moldovan identity by the international observers. In August 2010, the Romanian government also declared that the work of the bilateral government commission for minority questions had failed.

Ukraine, by contrast, accepts the existence of a separate Moldovan minority, which, while it might have linguistic and cultural links to the Roma-

nian people, resists being appropriated as Romanian. This position is largely approved of by experts from the Council of Europe and is consistent with the principles of minority rights. One problem in this regard is that most Romanians consider the entire Romanian- and Moldovan-speaking population to comprise the reference group for their own ethnic identity. Indirectly, the recognition of these Romanians as a national minority also strengthens the claims of those who wish to see the creation of a Greater Romanian nation. Because Ukraine recognizes both groups as separate minorities, Ukrainian nationalities policy almost inevitably strengthens the differences between the two groups and leads to a de facto de-romanianization of the Moldovans: At schools in Moldovan villages, Kiev funds the teaching of Moldovan instead of Romanian, while Moldovan history and culture are interpreted in line with Soviet-era anti-Romanian stereotypes.

The HCNM has dealt intensively with the complex question of Moldovan identity, and his work in this regard has benefited from his experiences during his engagement in the Republic of Moldova. Neither Kyiv's nor Bucharest's positions do justice to the complex reality of this sensitive question. Neither census data, nor the activities of the various minority organizations, nor historical arguments can provide sufficient evidence to prove or disprove the existence of an independent Moldovan nation. It appears that the widespread self-identification as Moldovans cannot always be interpreted as implying a commitment to an independent ethnic Moldovan nation, but can also be seen as a matter of regional-cultural identity that is not incompatible with a sense of allegiance to the Romanian culture and nation, and the two often go hand in hand among young people and the educated.

Despite the tension in relations between the two states, there have fortunately been no serious conflicts at the level of the population in either Romania or Ukraine. Nevertheless, the freeze in bilateral diplomatic cooperation may have negative consequences for the minorities. For instance, the Romanians in Transcarpathia are increasingly hostage to this dispute: Issues such as the mutual recognition of qualifications, the opening of a Romanian consulate, and the establishment of local border traffic remain unresolved because of the dispute between the states.

Against this background, the High Commissioner has called on both sides several times to resume the dialogue over these difficult questions and to revive the monitoring initiative. He promised to lend his support and discussed various settlement options. Nonetheless, the stalemate continues.

The HCNM in Ukraine: No End in Sight

Although the High Commissioner has – within the scope of his powers – dedicated considerable resources to his engagement in Ukraine, his efforts have had only limited success. The ethno-demographic legacy is too difficult,

the political culture too polarized, and the foreign-policy environment too filled with tension for the underlying ethnopolitical problems of the country to be solved in a few years. In addition, the growing authoritarianism that can be observed in Ukraine under President Yanukovich makes the search for balanced solutions and social consensus increasingly difficult. It is unlikely that there will be progress on the integration of the society as a whole and overcoming its divisions for the foreseeable future. On the contrary, the particularly tricky language question is threatening to escalate further. The intensive engagement of the HCNM is more necessary than ever.

In Ukraine, as in every country, the High Commissioner bases his work on international minority-rights standards. However, the population structure of Ukraine is considerably more complex than can be captured by the concept of minority rights, which tends to be rather schematic and focus on clearly identifiable minority groups. Does Ukraine even have a “Russian minority”, or a (much larger) minority of “Russian-speakers”? Can Russian-speaking Ukrainians, Bulgarians, or Gagauz claim a minority right to native-language school instruction in Russian? Should Moldovans and Romanians be treated as two different national minorities in Ukraine? The statements by the Council of Europe on these questions tend to be rather evasive.¹¹ The High Commissioner needs to make full use of all his political expertise to develop original conflict-prevention approaches for Ukraine’s divided society. Above all, patience and an unflagging appeal to reasonableness, good will, and the willingness to compromise are the most promising instruments for long-term conflict prevention.

11 See, for instance, the *Second Opinion on Ukraine* by the Advisory Committee on the Framework Convention for the Protection of National Minorities of 2008, at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Ukraine_en.pdf, Section 42.