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PC.DEL/1380/19
29 November 2019

ENGLISH
Original: RUSSIAN

Delegation of the Russian Federation

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AT THE 1249th MEETING OF THE OSCE PERMANENT COUNCIL**

28 November 2019

On the situation in Ukraine and the need to implement the Minsk agreements

Mr. Chairperson,

We note the initiative by the OSCE Chairperson-in-Office, Miroslav Lajčák, to visit Ukraine, including the line of contact near Stanytsia Luhanska. The example of the disengagement of forces and hardware that took place there this summer graphically illustrates that political will on the part of the Ukrainian authorities is the key to success. One need only recall how the previous leadership of the country, headed by Petro Poroshenko, blocked progress there for more than three years under various pretexts, sabotaging the disengagement and dragging out the discussions in the Trilateral Contact Group (TCG) on repair work to the bridge.

The remedying of violations committed by the Ukrainian armed forces in the disengagement areas in Zolote and Petrivske, the withdrawal of forces and hardware there, and also the finalization of demining measures create a favourable basis for the discussion of further de-escalation measures. At the beginning of this week, the OSCE Special Monitoring Mission to Ukraine (SMM) received confirmation of the dismantling of fortifications in Zolote. It appears that disengagement is having a positive humanitarian effect. In conversations with the monitors, residents of the Zolote-4/Rodina settlement expressed their satisfaction with the withdrawal of Ukrainian armed forces' subunits from the disengagement areas (SMM weekly report dated 19 November 2019). This has made it possible to bring the settlement closer to something like normal life, including emergency medical vehicles now being able to reach those in need. At the same time, as reported, the population expressed concern regarding the excavation of new trenches by the Ukrainian armed forces near residential buildings. We would remind you of the need to reach agreement in the TCG on additional de-escalation measures, which would include, among other things, a ban on combat positions in residential areas and also on firing from such positions.

Nevertheless, despite the demining inside the aforementioned areas, the mine threat near them persists. The SMM notes in particular that mines prevent access to the Petrivske area through territory controlled by the Ukrainian armed forces. Under the pretext of the threat of mines, significant areas remain closed to full-scale monitoring. It is also noteworthy that all the cases involving the jamming of SMM unmanned aerial vehicles (UAVs) last week – both short- and long-range UAVs – occurred over territory controlled by the Ukrainian armed forces.

Against this background, the Ukrainian armed forces continued to transport heavy equipment, including large-calibre artillery, into Donbas in November. The Mission spotted tanks and large-calibre artillery, including several self-propelled guns (2S7 Pion, 203 mm calibre), at the railway stations in Pokrovsk, Zachativka and Khibodarivka. These conditions call for closer monitoring by the SMM not only of hotspots, but also the rear of the Ukrainian armed forces, where military equipment is concentrated.

Mr. Chairperson,

Intensive monitoring by the SMM is needed not only in Donbas, but also in the rest of Ukraine. Discrimination on the basis of language, particularly in education, continues in the country. The conclusions of the experts of the Council of Europe Venice Commission on the results of their visit to Kyiv at the end of October are worth noting. The experts found the attempts by the Ukrainian authorities to justify the different approach to the Russian language compared with the languages of European Union countries when adopting laws on education and the State language to be unconvincing. They noted that the provisions on prosecution “for deliberate distortion of the Ukrainian language” and “creation of obstacles and restrictions in the use of the Ukrainian language” create a basis for restrictions on freedom of expression, guaranteed by Article 10 of the European Convention on Human Rights. Furthermore, according to the Venice Commission experts, the requirement to conduct events exclusively in the Ukrainian language also represents a violation of freedom of expression and contravenes Ukraine’s international human rights obligations. The experts made specific recommendations to the Ukrainian Government on revising the discriminatory provisions of the current legislation.

Against this background, aggressive nationalism, which raised its head after the 2014 coup d’état in Ukraine, continues to find a home. Countless radical nationalist organizations operate freely in the country. Some of them have paramilitary structures with members who have real combat experience. Radicals of different hues commit acts of vandalism, notably outside State institutions, for which they are rarely held legally accountable. A high level of xenophobia and anti-Semitism persists. According to the Anti-Defamation League, an international NGO, between 2015 and the present day the number of people holding anti-Semitic views in Ukraine increased by 14 per cent to 46 per cent. The change in power has not led to a dramatic improvement. Recent examples include the desecration by radicals on 25 November of a monument in Kyiv to the Jewish author Sholem Aleichem, which was daubed with a swastika. What are the odds that they don’t find the culprits this time either? We urge the SMM to make an objective assessment of these cases. A thematic report on manifestations of aggressive nationalism in Ukraine is long overdue.

One further point. On the anniversary of the beginning of the events on the Maidan in Kyiv, the Ukrainian law enforcement authorities, under the pretext of taking stock and transferring cases between departments, suspended the investigation of the crimes committed during the active phase of the armed confrontation in the centre of Kyiv in February 2014. Recently, an initiative by a member of parliament from Odessa to provide parliamentary assistance in the investigation into the mass murder at Trade Union House in Odessa on 2 May 2014 was blocked in the Verkhovna Rada. Impunity merely encourages the radicals.

Mr. Chairperson,

The Minsk agreements are of decisive importance in resolving the crisis in Ukraine. Their implementation is the key not only to peace in Donbas, but also to the normalization of the situation in the country as a whole. All the OSCE’s efforts should be focused to this end.

The TCG meeting on 27 November demonstrated the unwillingness of the representatives of the Ukrainian Government to move forward in the negotiations with the representatives of Donetsk and Luhansk

in the absence of fresh signals from the “Normandy format”. There is no real progress on the political aspects of a settlement, including key ones such as the special status of Donbas, an amnesty and constitutional changes. The law on special status has still not entered into force, and its fate after 31 December remains uncertain. Speculation continues as to whether to extend this normative act or replace it with something else. However, not only should it be made permanent, as provided for in the Minsk agreements, but the reservations making its practical application impossible should be withdrawn. The “Steinmeier formula”, agreed by the Ukrainian Government in the TCG, on the procedure for the entry into force of the “status” law also requires proper implementation in Ukrainian legislation. Unfortunately, at yesterday’s meeting in Minsk, there were still no substantive responses to these topics from the Ukrainian Government’s representatives. They also refused to discuss in the TCG the proposals by Donetsk and Luhansk on the subject of security regarding the determination of new areas for disengagement and demining.

The recent conflicting statements by Ukrainian officials testify to the absence of a clear strategy on Donbas on the part of the Ukrainian Government – for example, the revelations by the Minister for Foreign Affairs, Vadym Prystaiko, concerning the possibility of withdrawing from the Minsk process, or the interview with the Minister of Defence, Andriy Zagorodniuk, who reported that if the results of the “Normandy” summit were unsatisfactory the Ukrainian armed forces had a “prescribed plan to return” to positions inside the disengagement areas in Petrivske and Zolote. It appears that the Ukrainian Government has decided to resort to open blackmail of the international community by disrupting the fulfilment of its own commitments.

It is counter-productive to make the fate of the Minsk agreements dependent on the “Normandy” summit scheduled for 9 December. We would remind you that the Minsk Package of Measures is an internationally recognized framework for the settlement of the crisis in Ukraine, and the only one. Withdrawal from the Minsk process would mean a resumption of bloodshed and fresh suffering and casualties for the inhabitants of Donbas. We hope that the Ukrainian Government is not considering military action as its much vaunted plan B.

Thoughts about a possible “freezing” of the situation in the region voiced by Ukraine do not inspire optimism either. Given the impasse in the implementation of the Minsk agreements because of the Ukrainian Government’s failure to honour its commitments properly, this option is presented as almost a third way out. Such arguments do not bring us any closer to peace in Ukraine. In general, the background being created by the Ukrainian Government ahead of the “Normandy” meeting is hardly positive.

Support for the Minsk Package of Measures is of fundamental importance, especially at a time when there is growing support in Kyiv for revising this document or phasing it out altogether. At the same time, the Package of Measures of 12 February 2015 endorsed by the United Nations Security Council does not need further confirmation, let alone revision. It can and should be fully implemented by the Ukrainian Government and the authorities of Donetsk and Luhansk within a framework of direct dialogue.

Thank you for your attention.