



Institute for Peace Research and Security Policy at the University of Hamburg

Wolfgang Zellner/Randolf Oberschmidt/Claus Neukirch (Eds.)
Comparative Case Studies on the Effectiveness of the
OSCE High Commissioner on National Minorities

Volodymyr Kulyk

*Revisiting A Success Story:
Implementation of the Recommendations of the
OSCE High Commissioner on National Minorities to
Ukraine, 1994-2001*

Working Paper 6

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Editors' Preface

With the present series "Comparative Case Studies on the Effectiveness of the OSCE High Commissioner on National Minorities," we are publishing the results of the five country studies on Estonia, Latvia, Ukraine, Macedonia and Romania of the project "On the Effectiveness of the OSCE Minority Regime. Comparative Case Studies on the Implementation of the Recommendations of the High Commissioner on National Minorities (HCNM) of the OSCE". A comparative analysis on the differing success rates and conditions of the High Commissioner's facilitation and mediation efforts in these countries will follow.

The High Commissioner project was a challenging and fascinating task for several reasons. *First*, we had to deal with a new instrument of crisis prevention, one of the most innovative developments resulting from the international community's reaction to the shocking and for most of us surprising new reality of inter-ethnic conflict and war after the end of the East-West confrontation. When the High Commissioner's mandate was adopted, there was little experience with how to deal with this kind of conflict. And when we started the project in 1999, there was no empirical in-depth analysis on the High Commissioner's work. Thus, we found a rather empty field and had to start from the scratch.

Second, we had the privilege to deal with Max van der Stoep, the first incumbent of this new institution. When he took office, nearly everything that today goes to make the High Commissioner - sufficient funds, advisers, working instruments, contacts, experience - was not yet in place. It was fascinating to follow the straight-forward way this great European statesman used the raw material of the mandate and his own experience of a whole life devoted to peace and human rights to frame the institution of the High Commissioner to what it is today: an established and overall respected institution of European crisis prevention. Max van der Stoep and his advisers in The Hague have shown vivid interest in our project; they have encouraged us and have always been ready to answer our questions. We are very grateful for all their help.

Third, it was a great pleasure for us to work with a team of young, motivated and talented academics in the countries analysed: with Dr. Teuta Arifi in Macedonia, Jekaterina Dorodnova in Latvia, István Horváth in Romania, Dr. Volodymyr Kulyk in Ukraine, and Margit Sarv in Estonia. They not only collected and analysed piles of materials in eight languages to draft reports into a ninth one, but more importantly, they enriched the project with their specific experiences, avenues of access and points of view to an extent which would have never been achievable without them. We want to thank all of them for years of work and devotion.

We are also very grateful to Klemens Büscher, who worked with the project's Hamburg staff from the beginning of 1999 to mid-2000. The project owes very much to his superb expertise and analytical skills. And we want to warmly thank Kim Bennett, Jeffrey Hathaway, Katri Kemppainen and Veronica Trespalacios who have polished about 700 pages of English-language text written by non-native speakers.

Last, but by no means least, we are especially grateful to the *Deutsche Forschungsgemeinschaft*, whose generous grant first of all enabled us to carry out this demanding and rewarding research.

Hamburg, May 2002
The editors

Preface and Acknowledgements

The role of international organisations as important actors, on both inter-state and intra-state levels, has increasingly been taken into account in recent studies on a multitude of topics in various countries and contexts. The contribution of these actors to conflict prevention is one of the key aspects of their influence, in particular in Europe where the end of the Cold War paved the way for a number of bloody conflicts. A prominent actor, in this respect, has been the Organisation for Security and Co-operation in Europe (OSCE), which "has transformed itself from a bipolar dialogue forum to a multinational structure with semi-autonomous institutions, displaying an extensive operational capacity in conflict prevention and crisis management."¹ One institutional manifestation of the fact that the OSCE adopted this aspect as its strategic priority was the establishment of the post of the High Commissioner on National Minorities (HCNM).² Its primary task, according to its mandate, is to "provide 'early warning' and, as appropriate, 'early action', at the earliest possible stage in regard to tensions involving national minority issues which (...) have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States (...)." ³ Given that ethnic tensions are currently the most important cause of violent conflicts in Europe, it is in principle not surprising that this institution has become one of the two main foci of the OSCE's conflict prevention activities (the other being the long-term missions). At the same time, the prominent role of the HCNM is the achievement of the outstanding personality who was called in to fulfil this task.

The first incumbent of the post, the former Dutch Foreign Minister Max van der Stoep, who took office on 1 January 1993 and left it on 30 June 2001, was viewed by many as a successful choice made by the participating States. His valuable contribution to the prevention and settlement of a number of conflicts in the post-communist states, where nationalising policies in many cases evoked strong resistance on the part of ethnic minorities, is widely recognised by both political actors and researchers.⁴ Many works on van der Stoep's activities, as well as the OSCE in general, refer to his involvement in Ukraine as an example of his success. While several authors have investigated the case in some detail, no systematic study of the political context, substance and (non-)implementation of the High Commissioner's recommendations has so far appeared. The present study seeks to contribute to filling this lacuna. This study has been conducted within the framework of a research project, based on a comparative analysis of van der Stoep's involvement in six post-communist states (Estonia, Latvia, Macedonia, Romania, Slovakia, and Ukraine), and five additional detailed country studies will soon follow. They will hopefully increase our knowledge of the respective cases, as well as provide a basis for well-informed comparative research.

The structure of the study, largely determined by general theoretical guidelines of the project,⁵ is as follows. The first chapter describes the (ethno-)political context of the HCNM's involvement by presenting the strategies of the most important actors. Following Brubaker, the project assumes that these include the host state, relevant minorities and respective kin states.⁶ I also draw attention to factors that make these strategies contradictory and unstable. The three following chapters are devoted to three prominent problems/conflicts that van der Stoep dealt with primarily. Each of them begins with brief remarks on the expedience of involvement. The chapters proceed by investigating the developments which determined the changing context of his visible interventions, scrutinising the substance and implications of written recommendations that he presented to the Ukrainian government, and making a detailed step-by-step analysis of their (non-)implementation. This analysis is followed by concluding remarks on the main achievements and shortcomings of van der Stoep's contribution to preventing/overcoming the respective conflicts. The final chapter seeks to analyse the effectiveness of the High Commissioner's involvement more fully, evaluating its overall influence on the ethno-political

¹ Cohen 1999, p.1.

² As is the case in many other works, references in this text will, for the sake of readability, be made interchangeably to "the HCNM" and "the High Commissioner".

³ CSCE Helsinki Document 1992: The Challenges of Change, Section II, Paragraph 3, in: Bloed (Ed.) 1993, p. 716. Until the end of 1994, the organisation bore the name of the Conference on Security and Co-operation in Europe (CSCE).

⁴ On the HCNM as an institution and van der Stoep's ideas and activities, see e.g.: Zaagman 1994; Cohen 1999, Ch. 4.

⁵ For a detailed description of the project, see: Zellner 1999.

⁶ Brubaker 1996, p. 55ff.

situation and democratic transformation in Ukraine. Contrary to previous chapters, featuring an analysis of the involvement-related developments within a domestic Ukrainian context, the concluding chapter focuses on the HCNM as an external instrument for conflict prevention.

The remarks on principles of transliteration of Ukrainian and Russian words will be longer than usual references to the Library of Congress system (which I use with minor modifications that are intended to facilitate readability). The problem with rendering names seems to be more 'ideological' than purely technical. While basing English denominations of geographical sites in Ukraine on their Ukrainian, rather than Russian forms, has become imperative for scholarly literature, less clarity is found in the rendering of personal names. One reason is that the awareness of the ethnic and linguistic variety of Ukrainian society makes some authors insist on using supposedly original names of persons belonging to minorities. In my view, there is no correct way of presenting 'proper' names of most Ukrainian citizens in foreign languages. Because of the Soviet and post-Soviet practice of assigning every individual two forms of the first name (and sometimes even of the surname), in Ukrainian and Russian respectively, most people are accustomed to view such ambivalence as natural, and do not question what their 'proper' name is. Although some Russians dislike what they believe to be the distortion of their names by the state⁷ (while members of other minorities, in particular, Crimean Tatars, resent its adhering to the Soviet practice of using Russified forms⁸), it is this ambivalence that makes it nearly impossible to choose one original form to be transliterated into other languages. Therefore, this study will proceed from Ukrainian forms, but also mention minority ones (unless these coincide with the former), in order to both avoid (a perception of) an assimilative bias, and to make names, which are frequently used in other forms, identifiable to the reader.

Two further remarks on conventions of writing used throughout the text should be made. First, given the vast number of newspaper articles that are referred to in the notes, I was unable to provide the reader with as comprehensive references as I would have liked. Therefore, commentaries, interviews and longer news articles are included in the list of sources, while in the case of short and often anonymous reports I refer only to the name of the newspaper, date and page number. The dividing line was in some cases drawn arbitrarily, with the primary purpose of improving navigation. Second, a distinction is made in the text between double quotation marks in the case of direct quotations, and single ones for more loosely used pieces of discourse under consideration.

As implied above, this study was prepared within the framework of the research project on "The effectiveness of the OSCE minority regime: comparative case studies on implementation of the recommendations of the High Commissioner on National Minorities of the OSCE", dealing with six countries of the HCNM's salient involvement. The project was sponsored by the German Research Association (Deutsche Forschungsgemeinschaft) and conducted from 1999 to 2001 by the Centre for OSCE Research (Institute for Peace Research and Security Policy at the University of Hamburg) together with an international research team, which I was lucky to be part of. I would like to take this opportunity to express my gratitude to both of the above institutions which made the project possible, and to the team members who made my work therein pleasant. I also appreciate the help from a number of persons who contributed to my work in various ways. Two dozen officials, politicians and diplomats in Kyiv and Simferopol, interviewed by myself and/or my colleague Klemens Büscher, patiently answered our questions. Moreover, some of them helped me overcome the usual post-Soviet difficulty of accessing relevant documents. Natalie Belitser, Taras Kuzio, Roman Solchanyk and Susan Stewart also provided me with important primary and secondary material. Hamburg-based members of the project team, Wolfgang Zellner and Randolph Oberschmidt, did their best to support my work on both methodological and managerial levels. Finally, my special thanks go to Klemens Büscher, who contributed to this study in too many ways to list them all.

Volodymyr Kulyk
Kyiv, May 2002

⁷ Alleged "onomastic assimilation" of the Russophone population was one of the complaints of the Russian activists in Kharkiv in a meeting with van der Stoep in June 2000. Kornilov 2000b.

⁸ At the same time, the Tatar leadership's attempts at de-Russifying personal names have so far not resulted in a change of everyday usage, even inside the group.

List of Abbreviations

ARC	Autonomous Republic of Crimea
ASSR	Autonomous Soviet Socialist Republic
CiO	Chairman-in-Office (of the CSCE/OSCE)
CIS	Commonwealth of Independent States
CoE	Council of Europe
CSCE	Conference for Security and Co-operation in Europe
CSO	Committee of Senior Officials (of the CSCE)
HCNM	High Commissioner on National Minorities (of the CSCE/OSCE)
ILO	International Labour Organisation
IOM	International Organisation for Migration
NDKT	Natsional'noe dvizhenie krymskikh tatar (National Movement of the Crimean Tatars)
OKND	Organisatsiia krymskotatarskogo natsional'nogo dvizheniia (Organisation of the Crimean Tatar National Movement)
OSCE	Organisation for Security and Co-operation in Europe
PEVK	Partiia ekonomicheskogo vrozozhdeniia Kryma (Party of the Economic Revival of Crimea)
RDK	Respublikanskoie dvizhenie Kryma (Republican Movement of Crimea)
SSR	Soviet Socialist Republic
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
VRU	Verkhovna Rada Ukrainy (Verkhovna Rada of Ukraine)
VVRU	Vidomosti Verkhovnoi Rady Ukrainy (a weekly published by the Verkhovna Rada of Ukraine)
VVR URSR	Vidomosti Verkhovnoi Rady Ukrains'koi Radians'koi Sotsialistychnoi Respubliky (a weekly published by the Verkhovna Rada of the Ukrainian SSR)

Chapter 1. Introduction: Ethno-political Context of the HCNM's Involvement

One of the largest European countries, Ukraine re-emerged as an independent state in 1991. Its independence followed 70 years of autonomy within the USSR, preceded by more than two centuries of incorporation into the Russian Empire. The legacies of (semi-)stateless existence and Russian domination have strongly influenced post-Soviet Ukrainian nation-building, as well as the controversial relationship between the Ukrainian ethnic majority and the largest of minorities, the Russians. The Soviet nationalities policy has caused two other major problems for the Ukrainian state, which are of particular importance for this study. These are the return and integration of the Crimean Tatars, who were deported by the Stalin regime in 1944, and the (re-)establishment of the (national-) territorial autonomy of Crimea, which was abolished soon after their deportation. Needless to say, the legacy of the Soviet totalitarian regime has a profound impact on the entire political process of the newly independent state, including the way in which it deals with the above-mentioned ethno-political problems. The (non-)implementation of the HCNM's recommendations is a good illustration of this impact.

1.1 Some Remarks on the Ukrainian Political System

The idea of Ukrainian independence was first formulated and propagandised in the late-1980s by anti-regime dissidents, followed by some parts of the official cultural and scientific elite. However, the realisation of this idea only became possible once the ruling elite of the Ukrainian Soviet Socialist Republic, the nomenklatura, considered independence profitable for preserving and strengthening its powers. The result of the compromise between the nomenklatura and the 'democratic' (i.e. anti-totalitarian and moderate nationalist) opposition was an independent state, which was proclaimed by the parliament of the Ukrainian SSR on 24 August, and was confirmed in a referendum on 1 December 1991.⁹ Although the state had acquired a more or less democratic political framework and public discourse, the retained dominance of the former nomenklatura and the struggle for power and property between its parts impeded any radical transformation of the inherited political and economic institutions. Similar to most former Soviet republics, the office of president was introduced in 1991, with broad and vaguely defined powers, which predetermined permanent conflict between the legislative and executive branches. This was all the more harmful for democracy and social stability, because the judicial branch was weak, and did not enjoy due respect from the other two branches. Nevertheless, the power shift in 1994 from the first president, Leonid Kravchuk, to the second one, Leonid Kuchma, was peaceful. Moreover, a new constitution was adopted in 1996, introducing the main elements of democratic separation of powers and internationally recognised human rights. Though highly evaluated by Western experts, the constitution did not put an end to conflicts between the Verkhovna Rada (parliament) and the president, even though the Constitutional Court was established to judge, *inter alia*, the delimitation of powers and the legality of decisions. One consequence of this power struggle was that the governments, subordinated both to the parliament and the president, have been weak and have frequently changed. For ten years, Ukraine has had as many as nine governments. None of them was formed by political parties, which play a rather marginal role in the political process and carry extremely low authority amongst the population. Judicial power remains very weak and dependent on the executive, and the violation of citizens' constitutional rights and freedoms by the state is everyday practice. The media has not succeeded in becoming a powerful agent of civil society. Most outlets are controlled by economic 'clans' or power bodies, and pressure from authorities has considerably increased in the past years.¹⁰

Furthermore, the preservation of power by the former nomenklatura severely limited the possibilities for economic market reforms, as the authorities preferred to convert their political influence into capital by means of income redistribution. Such 'rent-seeking' resulted in an ever-deepening crisis and in a decrease of the living standard for the majority of the population. Because this impoverishment was presented in public discourse as the price or a by-product of independence and reforms, a considerable

⁹ For a discussion on late Soviet developments in Ukraine, see: Kuzio/Wilson 1994; Wittkowsky 1998; Nahaylo 1999.

¹⁰ See also: Prizel 1997; Casanova 1998; Ott 2000.

part of the population began to feel distrust towards both. This mood resulted in strong electoral support to the leftist parties, which were radically opposed to the 'bourgeois' and 'nationalist' orientations. Their dominance in the Verkhovna Rada made overcoming the economic crisis even more difficult.¹¹ The price of weakening their influence by the end of the first decade of independence appeared to be the dangerous consolidation of a non-democratic regime, as best evidenced by the re-election of Kuchma in 1999 and the considerable increase of his control over the parliament. Kuchma's attempt to boost presidential powers at the cost of legislative power plunged the country into a constitutional crisis and instigated radical opposition to an increasingly authoritarian power system. Contrary to widespread expectations, the resulting political instability failed to lead to a radical change of the regime or its political course.¹² Therefore, Ukraine's political future will be primarily influenced by power struggles within the regime.

1.2 *The Ethno-linguistic Situation on the Eve of Independence. The Legacy of the Soviet Period*

The ethnic composition of Ukrainian society could be considered typical for Central and Eastern Europe, where different ethnic groups have intermingled for many centuries, creating rather large minorities in the new national states (in their names and dominant perceptions) that emerged after World War I on the territories of the Austro-Hungarian and Russian Empires. Alongside the Ukrainian majority of 72,7 per cent of the population of nearly 50 million inhabitants,¹³ several minorities have been living more or less compactly on the territory of contemporary Ukraine for centuries. The minorities currently amounting to more than 100,000 persons each, according to the 1989 census, include the Moldovans, the Bulgarians, the Hungarians and the Romanians, all of whom mostly live compactly near the borders of their ethnic homelands. Two other ethnic groups, the Poles and the Jews, were historically more prominent in Ukraine than those just listed, but their number was drastically reduced during the twentieth century due to deportation, extermination and emigration. In contrast, the number of Belarusians, (Volga) Tatars, Armenians and many other ethnic groups of the former USSR considerably increased as the result of migration, which was promoted by the Soviet regime.

Table 1.1. Most populous ethnic groups in Ukraine, according to the 1989 census¹⁴

Group	Number	Percentage of total population
Ukrainians	37,419,053	72.7
Russians	11,355,582	22.1
Jews	486,326	0.9
Belarusians	440,045	0.9
Moldovans	324,525	0.6
Bulgarians	233,800	0.5
Poles	219,179	0.4
Hungarians	163,111	0.3
Romanians	134,825	0.3
Greeks	98,594	0.2
Tatars	86,875	0.2

The main consequence of the Soviet policy of 'merging the nations' was, however, as in many other republics of the USSR, the radically increasing presence of Russians. They first appeared in the eastern and southern regions four hundred years ago, but only started moving in large numbers with the rapid industrialisation of the late nineteenth century. Their percentage of the population of Ukraine in

¹¹ See: Wittkowsky 1998; Kuzio (Ed.) 1998.

¹² Ott 2000; Solchanyk 2001.

¹³ According to the last Soviet census, held in 1989, the Ukrainian SSR has a population of 51.5 million. During the years since independence, it has steadily been decreasing, and was estimated to be roughly two million inhabitants less in 2001. The first post-Soviet census was held in December 2001, but the results were not published by the time this study went to print.

¹⁴ Yevtukh 1995, p. 70.

1989 was almost three times as high as in 1926. The absolute number grew even more rapidly, amounting to 11.4 million inhabitants in 1989. As Ukraine was both one of the most attractive regions for voluntary migration of Russians and an object of the regime's effort to strengthen their 'internationalist' role, Russians are currently present in all parts of the country. However, nearly two thirds of them live in the eastern and southern regions, where they constitute sizeable minorities of 20 to 45 per cent. Most big cities are situated in these regions, and the urbanisation rate of Russians, 88.0 per cent in 1989, is considerably higher than that of Ukrainians.¹⁵ The policy of ever-increasing Russification, which as early as the 1930s had destroyed the educational and cultural institutions of Ukraine's non-Russian minorities and was since then gradually undermining those of Ukrainians, was quite favourable for the Russians. Their educational and cultural demands were met to a higher degree than those of the titular nation. Not only were there ever more Russian language schools, institutions of higher education, books, newspapers, TV and radio programmes and movies and theatres in Ukraine, but one could also consume cultural products from Russia. As a result of the urbanisation rate and cultural conditions, the Russians in Ukraine had a considerably higher educational level than the Ukrainians, and hence higher representation in spheres of social prestige.¹⁶ Although their identity was somewhat torn between ethnic and imperial components (as became evident after the disappearance of what they believed to have been their homeland, the USSR), they were inclined and able to preserve their language and culture. The Russians were all the more so at an advantage because they could use their mother tongue in professional communication and in other spheres of everyday life, including addresses to the authorities.

Such social and cultural domination is, however, rather typical for imperial nations. The unique legacy of the Soviet empire in Ukraine and the most peculiar feature of its post-Soviet ethno-political situation was the large-scale linguistic and cultural Russification of the titular group. This was not limited, contrary to previous periods, to the upper social strata. The rapid urbanisation of the Ukrainian population, a massive influx of Russians into cities and the higher social prestige of the Russian ('all-Union') language, including its dominance in the specifically urban spheres of life, made millions of ethnic Ukrainians subject to forced Russification. Moreover, given their underdeveloped ethno-national identity, they were not even willing to preserve their 'backward' language. An ever-increasing part of them regarded Russian as their mother tongue. The figure in the 1989 census was 12.2 per cent; however, as later poll data indicate, the real percentage of those who spoke Russian in their everyday life was much higher, up to one third of ethnic Ukrainians, and therefore half - or even more - of the whole population.¹⁷ On the eve of independence, more than half of the children in Ukrainian schools and kindergartens were taught in Russian. In most cities in the eastern and southern parts of the country, there were almost no schools with instruction in Ukrainian. The language of the titular nation was rarely spoken in the street, and almost never in the government and public bodies. Many other ethno-cultural demands of the (Ukrainian-speaking) Ukrainians were not better met. Very few institutions of higher education continued to teach in Ukrainian, with the exception of the western regions. Almost no movies were shown in Ukrainian, not even among those that were produced in Ukraine.¹⁸ As will be argued below, in some ways this linguistic and cultural subordination of the Ukrainians has not changed during the years after the declaration of independence.

The dominance of the Russian language was absolute in the Crimean peninsula, which had been transferred to the Ukrainian SSR from the Russian Federation in 1954. It is the only region in Ukraine where the ethnically Russian population prevails, and Ukrainians are the largest minority.

¹⁵ Melvin 1995, pp. 86f; Yevtukh et al. (Eds.) 1996, pp. 103ff; Kuzio/Wilson 1994, p. 30.

¹⁶ Yevtukh et al. (Eds.) 1996, pp. 109ff; Golovakha et al. 1994, pp. 62f.

¹⁷ Arel 1995b, pp. 169f; Wilson 1997, pp. 20ff.

¹⁸ Arel 1995a, pp. 604ff; Prybytkova 1998, pp. 237ff; Solchanyk 2000, pp. 544f.

Table 2.1. Most populous ethnic groups of Crimea, according to the 1989 census¹⁹

Group	Number	Percentage of total population
Russians	1,629,542	67.0
Ukrainians	625,919	25.8
Belarusians	50,054	2.1
Crimean Tatars	38,365	1.6
Jews	17,731	0.7
Tatars	10,762	0.4

The roughly reverse proportion of size of these two groups in Crimea and the whole of Ukraine highlights a contrast between the conditions of the respective minorities. The Crimean Ukrainians did not have one single school, almost no media and no other opportunities to use their language in public. It is not surprising that the degree of linguistic Russification was the highest in this area. Nearly half of the Ukrainians declared their mother tongue to be Russian, though once again, the real use of Russian has been much more extensive. The presence of both groups on the peninsula has increased considerably through migration after the indigenous population, the Crimean Tatars, as well as members of several smaller ethnic groups (all labelled as Nazi collaborators), had been deported by the Soviet regime in 1944, mainly to Central Asia. A year later, Moscow abolished the Crimean autonomous republic. (The Tatars constituted no more than a quarter of the whole population in the inter-war period, though some institutions of a 'national' republic existed.) Although rehabilitated in 1967, the Crimean Tatars were not allowed to return to their homeland until 1988. Some of them managed to settle in Crimea in spite of this restriction. Since 1988, the number of Crimean Tatars on the peninsula has increased very sharply, amounting to 260,000 (9.6 per cent there, and 0.5 per cent of Ukraine's entire population) in 1993. Later, as the returnees experienced severe social problems in Crimea, and resettlement became financially impossible for the majority of those who were still in the areas of deportation, the migratory flow began to trickle. Roughly half of the Crimean Tatars remain in Central Asia, and migration may be reinitiated once conditions change.²⁰ Lack of virtually any ethno-cultural institutions in the areas of deportation resulted in lack of knowledge of Crimean Tatar. This is especially the case among young people, most of whom are more fluent in Russian. However, their highly developed ethnic identity has caused an overwhelming majority of the Tatars to declare their mother tongue the traditional language of their people (93.3 per cent in the 1989 census).²¹

Although unique in its ethnic composition and perceived distance from other parts of the country (due to this ethnic composition and the region's late incorporation into Ukraine), Crimea is by no means the only region where the particular configuration of genealogical, linguistic, historical and economic elements coined a specific identity, forming the sense of ethnicity of both Ukrainians and Russians. Not only is their majority-minority relationship in the West opposite to that of the peninsula, but also the primary dividing lines are often not ethnic, but rather linguistic or, indeed, regional. Heavily Russified/Sovietised Ukrainians in the south-eastern industrial region of Donbas are much closer to Russians of the same region than to Ukrainians in the western nationalist stronghold of Galicia. Similar differences are to be found between the Russians of the two regions, or even between those of different predominantly Russophone parts of the country.²² It is these regional differences and intertwined identities that impede ethnic mobilisation, limit the influence of nationalist organisations and make ethno-political processes in contemporary Ukraine unlike those in most other countries where the HCNM has been involved.

¹⁹ Yevtukh 1995, p. 72.

²⁰ Wilson 1998, pp. 282-283, 291; The Forced Migration Projects (Ed.) 1996, pp. 11-28.

²¹ Yevtukh 1995, pp. 79ff.

²² Melvin 1995; Kuzio/Wilson 1994, Ch. 2; Wilson 1997, Ch. 1; Jackson 1998, p. 101.

1.3 Original Strategies of Main Majority and Minority Actors

It comes as no surprise, in view of the above-described situation, that the Russians did not feel their ethno-cultural rights endangered. They were, therefore, not as prompt to organise themselves in order to protect these rights as the Ukrainians or Crimean Tatars, when the Gorbachev perestroika presented an opportunity for such activities. Moreover, the titular group had various elites which possessed administrative and communicative resources for mobilising the masses, as well as the dissident tradition of national(ist)-democratic thinking and activities, which was directed against totalitarianism and 'merging the nations'. The elites that had been created by the Soviet policy of double institutionalisation of ethnicity (in the quasi-state territorial formations of the major nations and in the fixed 'nationality' of each individual),²³ were more or less strongly opposed to centralising and Russifying deviations from that policy during the late Soviet decades, which posed a threat to make them dysfunctional. The writers, who were threatened by Russification more than other Ukrainian elites, as early as 1987 demanded that the authorities reinstate the obligatory teaching of the Ukrainian language and literature in all schools of the republic, regardless of their language of instruction. They also wanted the authorities to ensure that the number of schools teaching in Ukrainian and Russian correlated with the respective sizes of these ethnic, not linguistic, groups. To achieve such a radical change of the linguistic profile of education, which included more than half of the Russian-language schools, the authors proposed to withdraw the right of parents to choose their children's language of instruction, which had been granted in 1959. They believed that this right acted as a means of Russification, given the social dominance and higher prestige of Russian. This was to be just one of the measures aimed at introducing the Ukrainian language into all public spheres. As a constitutional basis for such measures, a demand was made for Ukrainian to be granted the status of sole official language, or state language as it was called, in the republic.²⁴ In October 1989, the communist-dominated parliament passed a constitutional amendment on that matter, as well as a special language law, providing for an all-embracing use of Ukrainian. However, the position of Russian as a "language [of inter-national communication] of the peoples of the USSR" was retained. This implied bilingualism in a number of practices, as well as the compulsory learning of the two languages in all schools.²⁵

At the same time, anti-regime dissidents considered the unfavourable conditions of the Ukrainian language and culture, as well as all other problems of Ukrainian society, to be caused by the violation of the constitutional principles of sovereignty and democracy. Therefore, the protection of the national rights of Ukrainians was to be an element of a radical transformation of society based on those principles. It did not contradict the linguistic and cultural 'revival' of other ethnic groups, which were also viewed as victims of Russification.²⁶ In 1989, the anti-totalitarian and ethno-nationalist project was further developed in the documents of the Ukrainian Popular Movement for Perestroika, Rukh. The movement united dissidents and members of the official cultural and scientific elite, creating powerful opposition to the communist regime in Ukraine. Rukh leaders tried to mobilise members of all ethnic groups under the slogans of democracy and sovereignty of Ukraine. (Initially, they called for sovereignty within the framework of the USSR, which was to be transformed into a 'true federation'; in 1990, the movement proclaimed complete independence as its aim, and perestroika was no longer mentioned in its name.). Accordingly, Rukh presented the future Ukraine as a state where all inhabitants would be ensured, *inter alia*, their ethno-cultural rights. These rights, however, were to be granted on the basis of the fixed 'nationality' of each individual. The proposed democratic nation-state could only be achieved by means of 'de-Russification' of the Ukrainian ethnic majority and non-Russian minorities. This meant ignoring the cultural rights of those who had been Russified, i.e. the non-Russian Russophones, a linguistic group amounting to one third of the total population.²⁷

It is not surprising that such a strategy could not unite the Ukrainian ethnic majority, and failed to mobilise it to assert its rights. While quite acceptable to the mainly Ukrainian-speaking population of the

²³ Brubaker 1994.

²⁴ Kulyk 1998, pp. 55-64.

²⁵ Law of the Ukrainian Soviet Socialist Republic On languages 1989 (quote from Art. 4, corrected according to the original). For analyses of the law see: Scheu 1997, pp. 64-80; Arel 1995a, pp. 599f; Solchanyk 2000, pp. 541f.

²⁶ See a programmatic document of an organisation that was established by the dissidents in summer 1988: Ukrainian Helsinki Union Declaration of Principles 1988.

²⁷ Kulyk 1999, pp. 7ff. For programmatic documents of Rukh, see: Sajewych/Sorokowski (Eds.) 1989.

western regions, the ethno-cultural aspect of the Rukh programme was seen as dangerous by a considerable part of the Russophones. This perception was, to some degree, formed by the regime's propaganda, which pictured forced 'Ukrainianisation' and even inter-ethnic bloodshed, should the opposition take power, and prevented the movement from gaining much support in the east and south. Soon, however, the nomenklatura itself came to propagandise (greater) sovereignty for the Soviet Ukraine, in order to resist the opposition's claim to power and, at the same time, to wrest more power from the Moscow centre. However, it stressed not ethno-cultural revival, but economic prosperity, social stability and inter-ethnic accord. In August 1991, the mainstream nomenklatura's vision of sovereignty, which was most eloquently represented by the chairman of the Verkhovna Rada, Leonid Kravchuk, was radicalised to a position of complete independence from the USSR. Accordingly, the authorities and opposition virtually united their efforts in eliciting the population's support in the December referendum. Equality of social and political rights of all inhabitants of Ukraine, regardless of their 'nationality', as well as freedom of ethno-cultural expression, became important elements of this propaganda.²⁸ In the parliamentary debates on the citizenship law in October, the granting of citizenship of the new state to all its residents was considered the only possible option.²⁹ Moreover, a special Declaration of Rights of Nationalities of Ukraine was passed by the Verkhovna Rada on 1 November, promising not only full ethno-cultural rights, but also the functioning of minority languages "on equal footing with the state language" in territorial units where "a certain nationality lives compactly". Moreover, it declared the right of all citizens "to freely use the Russian language".³⁰

Such sovereignty was acceptable to minorities, including the Russians and the Russian-speaking Ukrainians. Even initially, when the nomenklatura opposed Rukh's appeal for far-reaching sovereignty and ethnic 'revival', its repeated attempts to organise a Russian-speaking 'interfront' were unsuccessful. The above-mentioned social structure of the Russian minority made a Baltic scenario of driving a wedge between indigenous intelligentsia and largely Russian immigrant workers inapplicable. Linguistic and cultural differences between the two main ethnic groups were relatively small, the percentage of mixed marriages was high, and implementation of the 1989 language law was extremely moderate, if existent at all, especially in the east and south. As a result, the Russians neither felt themselves alien among the Ukrainians, nor considered an independent Ukraine to be a serious threat to their ethno-linguistic identity.³¹ This, however, meant that their support for independence was based on expectations of a language policy, which would enable the preservation of that identity. But above all, their support was based on hopes for economic prosperity, which soon proved false.

The independence challenge gave the Russians a strong impulse towards self-organisation, which had first been attempted during the last years of the USSR. In various regions, several societies were created to prevent the use of Russians against Ukrainian aspirations, which could have resulted in inter-ethnic confrontation, and instead to channel their activity into the cultural field.³² On the other hand, initiated by a part of the local elite in the east and south, who tried to play up Russian discontents in order to ensure their political survival after the banning of the communist party, new interfront-type organisations emerged in the Donbas. They called for Ukraine's participation in a new union treaty between the Soviet republics, and/or the federalisation of Ukraine itself. However, these attempts did not make Donbasians vote against independence. Later, their disappointment therein led them toward supporting post-Soviet reintegration, rather than the separation of their region from the rest of Ukraine.³³

In Crimea, contrary to the Donbas and other mainly Russian-speaking regions, elites and masses identified themselves with Ukraine only to a low degree, and hardly shared hopes for its prosperous sovereignty. Reluctant to lose their ties with Russia and to experience 'Ukrainianisation', however moderate, they reacted to Kyiv's moves towards sovereignty with efforts to avoid eventual secession from the USSR. At the same time, the local communist leadership, headed by Mykola Bahrov (Nikolai

²⁸ Kulyk 1999, pp. 12ff; Kuzio/Wilson 1994, Chps. 8, 9.

²⁹ Zakon pro hromadianstvo 1991, Art. 2. See also: Casanova 1998, p. 86.

³⁰ Deklaratsiia prav natsional'nostei 1991, art. 3.

³¹ Golovakha et al. 1994, pp. 64ff.

³² See e.g.: Literaturna Ukraina, 24 October 1991, p. 1; 31 October 1991, p. 2.

³³ Kuzio/Wilson 1994, pp. 197f; Bukkvoll 1997, pp. 27f; Wittkowsky 1998, pp. 137f.

Bagrov), tried to use this 'threat', as well as the one caused by the accelerating return of Crimean Tatars, to preserve and strengthen their position on the peninsula. In September 1990, soon after the sovereignty of the Ukrainian SSR within the USSR had been declared, the Crimean oblast (regional) Soviet called the parliaments of the USSR and Russian Federation to annul the 1945 law that had changed the peninsula's status. In November, a week before the Russian-Ukrainian treaty was signed, committing the two sides to respect each other's territorial integrity, the Crimean Soviet condemned the 1954 transfer of the peninsula to Ukraine. In a referendum organised by the Soviet on 20 January 1991, an overwhelming majority of the population supported the restoration of the Crimean Autonomous Soviet Socialist Republic (ASSR) "as a subject of the USSR and as a party to the Union Treaty". Though nationalist opposition in Kyiv sharply criticised this move as separatist, Russian chauvinist and aimed at preserving the Russian ethnic domination in Crimea, the 'sovereign-communist' leadership of Ukraine, hoping to prevent an escalation of separatism, preferred to grant more power to the Crimean nomenklatura. In February, the Verkhovna Rada adopted a law restoring the Crimean ASSR within Ukraine's borders. In June, it granted Crimea the status of an autonomous body with a separate constitution.³⁴

However, the declaration of Ukrainian independence and the banning of the communist party in late August urged the leadership in Simferopol, the capital of the autonomy, to take more radical steps. On 2 September, the Supreme (former oblast) Soviet³⁵ declared Crimean state sovereignty, thus following a pattern of laying claim to more power, increasingly used since 1988 by the ruling elites in Soviet republics at various levels. At the same time, several organisations with overtly separatist intentions emerged. The most influential amongst them was the Republican Movement of Crimea (Respublikanskoie Dvizhenie Kryma, RDK), headed by the deputy of the peninsular Soviet, Yurii Meshkov, the most prominent champion of separatism. These organisations began campaigning for a referendum to annul the 1954 decision, and to transfer Crimea to the Russian Federation. Under their pressure, the Supreme Soviet met for an emergency session on 22 November, and adopted a Crimean referendum law that paved the way for a potential vote on secession. In the 1 December Ukrainian-wide referendum, the majority of Crimean participants supported independence (54.2 per cent). However, contrary to other regions, it was not a majority of the whole electorate. Hence, this was an unfavourable starting point for securing Ukrainian influence on the peninsula.³⁶

The Ukrainian minority on the peninsula lacked its own organisations and agenda. In fact, many of its Russified members supported the Russian minority. The only Crimean group which resisted the separatist orientation appeared to be the Crimean Tatars. Historical experience of deportation and discrimination, as well as a long-standing tradition of mass struggle for the right to return to the homeland, allowed them to develop a well-defined agenda and experience in organisation. Having finally pressured the Gorbachev leadership to lift the prohibition of their settlement in Crimea, they were denied the restoration of a national-territorial autonomy, as well as material assistance for an organised return. Moving to the peninsula on their own, the Tatars encountered the local authorities' countless obstacles to the acquirement of the right of residence, buying houses (the return of the property they had owned before the deportation was out of question) and finding employment. It was at this stage that radicalisation of the Crimean Tatar movement began. The National Movement of the Crimean Tatars (Natsional'noie Dvizhenie Krymskikh Tatar, NDKT), which had been established in 1987 by the veterans of protest campaigns of the 1960s, found that its strategy of peaceful protest and loyal petitions to the authorities was no longer accepted by the frustrated masses. In May 1989, the Organisation of the Crimean Tatar National Movement (Organizatsiia Krymskotatarskogo Natsional'nogo Dvizheniia, OKND) was founded. It developed a more radical agenda of "the return of the Crimean Tatar people to

³⁴ Kuzio/Wilson 1994, pp. 192f; Chronology 1995, pp. xxvf (quote on p. xxvi).

³⁵ Both the Ukrainian and Crimean parliaments were officially called Rada in Ukrainian and Soviet in Russian, prior to the adoption of the respective constitutions in 1996 and 1998. However, the name of the latter is rendered in this work as the Supreme Soviet, rather than Verkhovna Rada, since it was the Russian name which was overwhelmingly used in Crimea itself, and which was taken as the 'original' one for rendering in foreign languages. Also, using different forms makes it easier to identify which of the two bodies is meant. The text will, however, switch to the form Rada while dealing with the period after 1998, when it was officially used in Russian as well (or earlier documents preferring that form).

³⁶ Kuzio/Wilson 1994, pp. 193f.

their historic homeland and the restoration of their national statehood", also resorting to more radical means in its realisation.³⁷

The main element of its political strategy was the election, by all Crimean Tatars of the USSR, of a national assembly (Kurultai), which in turn was to elect a standing body (Mejlis) that would act between the Kurultai sessions. The majority of the Crimean Tatars on the peninsula and a considerable part of those in areas of deportation took part in the election of the Kurultai. It therefore acquired a certain legitimacy, at least in the eyes of the Tatars themselves. The Second Kurultai (the numbering was meant to emphasise continuity with a body that was established in December 1917) convened in Simferopol in June 1991. It elected the Mejlis as "the highest plenipotentiary representative body of the Crimean Tatar people". Half of its members belonged to the OKND, and Mustafa Jemilev (Dzhemilev, Cemiloglu) was elected the first head of the Mejlis. Soon thereafter, the formation of local Crimean Tatar self-government bodies, Mejlises, was launched on the peninsula. Committees in places of deportation were also formed in order to aid people in returning to their homeland.³⁸

The Kurultai passed the "Declaration of National Sovereignty of the Crimean Tatar People", which revealed its inclination towards a "sovereign national state" in Crimea. It declared the peninsula "the national territory of the Crimean Tatar people, on which they alone possess the right to self-determination", thus denying any legitimacy to the Crimean ASSR.³⁹ Such an absolutist programme of self-determination, however, had few chances to be realised. In practical politics, the Mejlis leaders were, from the very beginning, prepared to act in the spirit of consociational compromise. The draft constitution of the Crimean Republic, drawn up by the Mejlis in December 1991, stipulated a system of 'dual power', which was intended to balance the interests of the indigenous population (Crimean Tatars as well as the two tiny groups, Qrymchaq and Qaraim) and citizens of other nationalities. At a local level, representation of the former would work through the Mejlises, acting on the principle of national-personal autonomy. At the Crimean regional level, the Mejlis would serve as the upper house of the parliament. However, such power-sharing was neither acceptable to the authorities nor to the majority of the Slavic population (anti-Tatar prejudices of the latter being instigated by the former).⁴⁰

The 'restoration' of the Crimean ASSR, initiated by the communist leadership in Simferopol, failed to take the Tatars' strivings into account. In fact, it was intended to prevent their realisation. As a result, the OKND urged a boycott of the January 1991 referendum. When the Ukrainian parliament approved the establishment of such an autonomy, the Crimean Tatars had ground to believe that Kyiv was no more willing to solve their problems than Moscow or Simferopol. However, once the same parliament declared Ukrainian independence, the Tatar leaders unequivocally supported this move, as it was out of question for them to side with the Crimean Russians' unionist/separatist orientation. In any case, most Tatars regarded Moscow responsible for the deportation. On the other hand, the Ukrainian nationalist movement had been supporting their cause since the 1960s. The Mejlis later claimed that only the Tatars had produced support for Ukrainian independence from the majority of Crimean voters. Therefore, they hoped that Kyiv would recognise the Mejlis as a legitimate body, pass legislative acts aimed at securing the rights of the Crimean Tatar people, and promote their return and integration into Ukrainian society. However, Kyiv was concerned first and foremost with the growth of Russian separatism, and preferred not to provoke its further radicalisation by any steps that could be interpreted as siding with the Tatars.⁴¹

To summarise, the inherited ethno-linguistic profile of the country made it difficult for the leadership of independent Ukraine to pursue a policy aimed at the formation of a nation-state. In fact, it made it difficult to formulate any consistent policy on inter-ethnic matters. The Ukrainian nationalist strategy of ethnic 'revival' and 'return' to the linguistic and cultural domination of the titular nation required an independent state as a precondition of its realisation. However, this strategy was incompatible with the hope of most Russians to maintain the Soviet ethno-cultural status quo, which was a precondition of

³⁷ Cemiloglu 1995; Wilson 1998, pp. 281ff (quote from the OKND programme on p. 285).

³⁸ Wilson 1998, pp. 286ff; Declaration of National Sovereignty 1991, p. 353 (quote).

³⁹ Declaration of National Sovereignty 1991, p. 353.

⁴⁰ Wilson 1998, pp. 289f.

⁴¹ Ibid., pp. 292ff; Cemiloglu 1995, pp. 104f.

their acquiescence to independence. Moreover, the Ukrainian ethnic majority, far from being homogeneous with regard to its linguistic and cultural identity, was not ready to accept any single strategy of dealing with the Soviet legacy. While (a part of) the Ukrainophones of the west and centre supported the agenda of 'revival', the Russophones of the east and south were mostly opposed to its 'de-Russifying' element. They were more inclined to side with the Russians in their desire to maintain the status quo. Accordingly, Ukrainian ethno-nationalist parties were far from dominating politics on both national and, with the exception of the west, regional levels. On the other hand, the majority of ethnic Russians lacked a clear ethno-cultural identity, distinct from the all-union, Ukrainian and regional ones. This prevented them from developing a persuasive ethno-political agenda, as well as from establishing strong organisations to ensure that the agenda was implemented. Finally, in Crimea, a region that is vitally important for Ukrainian independence, the dominant Russians' strategy of political separatism and maintenance of their ethno-cultural domination ran against the Tatars' policy of striving for national statehood. Although they were the most homogeneous and organised of the three ethnic groups, the Crimean Tatars faced the worst chance in realising their agenda. This is because they were quantitatively the weakest, and lacked a kin-state that would be capable of influencing the Ukrainian ethno-political situation in their favour.⁴²

1.4 Minority Policies of Independent Ukraine

Ukraine's policy on ethnic matters was both presented by its leadership and recognised by many international experts as democratic and tolerant.⁴³ The incumbent HCNM, although generally reluctant to give public assessments of the situation in countries of his involvement, reportedly stated during his first visit to Kyiv in February 1994 that Ukraine's minority legislation was not only in accordance with international standards, but also surpassed them in many aspects. Thus, it could be recommended as a model for many European countries.⁴⁴ However, this policy caused discontent in a considerable part of the population, and became a major point of political confrontation both at the national level for a short period of time, when heated controversies took place over the status of the Russian language, and at the regional level in Crimea, where there was a smouldering Russian-Tatar conflict. To understand why this occurred, one must analyse the formulation and implementation of the policy with regard to the two minorities covered by this study, as well as to the Ukrainian majority. As a detailed discussion seems more expedient in the following chapters, which are devoted to the High Commissioner's involvement in solving the respective problems, only a general outline of legislative basis of the minority rights and their practical implementation is provided in this section.

In securing equal social and political rights for all its citizens, the Ukrainian state behaved in complete accordance with the promises it had made on the eve of the independence referendum. As noted above, the citizenship law of October 1991 neither applied an ethnic criterion for the then residents of Ukraine nor for its former residents and their descendants, who were willing to come back. Similarly, a simplified procedure of acquiring citizenship, which was introduced to returnees by amendments made in 1993, 1994, 1997 and 2001, did not grant privileges to ethnic Ukrainians. In general, the amendments did not make reference to ethnic origin (see chapter 3). There was not only no ethnic discrimination in getting employment and education, but representation of minorities was also ensured to such a degree that their members held prominent positions in all levels of government (up to that of

⁴² As Turkey hosts a large Crimean Tatar diaspora (much larger than the Tatar community in the homeland), it has displayed special interest in the fate of the Crimean Tatar people in Ukraine, both by rendering them financial and cultural support, as well as by raising the problem of securing their rights in bilateral relations with Kyiv. That influence, however, only became visible during the last years and was not comparable with that of Russia's (see section 1.5).

⁴³ For expert appraisal, see e.g.: Drohobycky 1995b; Stent 1994. For more critical views, see: Arel 1995; Wilson 1997; Stepanenko 2000.

⁴⁴ Holos Ukrainy, 18 February 1994, p. 2. No direct quotation was given in the reports on the visit. One can, therefore, not exclude that the statement was somewhat distorted, not an unusual practice for the HCNM's involvement in Ukraine (cf. below). In his first letter to the Ukrainian government, issued in May that year, van der Stoep expressed a more moderate appraisal, stating that "the Ukrainian legislation concerning minority questions complies, in general, fully with the international obligations Ukraine has entered into". Letter by van der Stoep to Zlenko, 15 May 1994, p. 785.

prime minister), and were present in parliament and most regional and local councils.⁴⁵ Even though no quota system was applied, the percentage of minority deputies was, in many cases, higher than their group's share in the whole population. In this regard, minorities living compactly were in a privileged position, while those predominantly dispersed often appeared to be considerably under-represented.⁴⁶ The post-Soviet constitution of Ukraine, which came into force in June 1996, declared the sovereign power of "the Ukrainian [P]eople - citizens of Ukraine of all nationalities", and forbade any privileges or restrictions on the basis, *inter alia*, of race, ethnic origin, religion or language⁴⁷ (inadmissibility thereof was, by then, provided for by a number of relevant legislative acts).

The state's attitude towards linguistic and cultural rights of the minorities was no less favourable. The law on national minorities, adopted in June 1992, provided a broad palette of rights, which applied not only to citizens belonging to non-Ukrainian ethnic groups (determining his/her own 'nationality' was one of those rights), but also to minorities as collective entities. The law confirmed the main provisions of the pre-referendum Declaration of Rights of Nationalities with regard to the right for national-cultural autonomy. It included "the [use of, and instruction in, or] learning of, their native languages in state educational establishments or at national-cultural societies", as well as other activities aimed at meeting the minorities' ethno-cultural demands. Moreover, budget allocations for such activities were envisaged.⁴⁸ Although ethnic territorial units were not stipulated as a possible way of implementing the rights of minorities, as this was considered dangerous for the state's integrity,⁴⁹ the law provided for the use of minority languages along with the state language, in places where a minority group constituted a majority.⁵⁰ Cultural rights of the minorities, including establishing their own media, publishing, educational and cultural institutions, were further secured in the framework law on culture, adopted in February 1992.⁵¹ Finally, the Constitution declared the state's commitment to guarantee "free development, use and protection" of Russian and other minority languages, as well as to promote "development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine". Moreover, it forbade narrowing the scope of earlier granted rights and liberties by means of adopting new laws or amending existing ones. It thus provided for the preservation of current minority rights in the future.⁵²

According to the Constitution, international documents ratified by the Ukrainian parliament are a part of national legislation. Ukraine is party to a number of international documents regarding minority rights, including all major UN pacts and conventions. The Ukrainian SSR has been a member of the United Nations since 1945, and ratified these acts during the Soviet era. Ukraine is also party to OSCE documents on the human dimension, having been admitted to the then CSCE in January 1992. In September 1995, on the eve of its admittance to the Council of Europe (CoE), Ukraine signed the Framework Convention for the Protection of National Minorities, which was ratified in December 1997.⁵³ Kyiv also committed to sign and ratify the CoE European Charter for Regional or Minority Languages. This was signed in May 1996, but has so far not come into force because of controversy over the level of commitment to be taken by the state with regard to minorities (see section 4.4). Although Ukraine is not a full member of the Commonwealth of Independent States (CIS),⁵⁴ it also signed the CIS's two major documents regarding minority matters. The Agreement on Issues Related to the

⁴⁵ Juska (1999) argues that Ukraine is unique among the post-Soviet states in that it has developed a consociationalist ethno-political arrangement, albeit in a surrogate state-corporatist form.

⁴⁶ Yevtukh 1997, pp. 41f; Stepanenko 2000, pp. 225f.

⁴⁷ Constitution of Ukraine 1996, preamble (quote corrected according to the original), Art. 24.

⁴⁸ Law On National Minorities 1992, Arts. 11, 6 (quote corrected according to the original), 16. See also: Scheu, 1997, Ch. 3.

⁴⁹ Similarly, the state sought to avoid political mobilisation of ethnic groups by legislatively impeding the formation of ethnically-based parties. Janmaat 2000, p. 66.

⁵⁰ The minorities law, however, somewhat limited the possibilities for using non-titular languages, in comparison with the language law of 1989 (see Ch. 4).

⁵¹ Zakon pro kul'turu 1992, Art. 8.

⁵² Constitution of Ukraine 1996, Arts. 10 (quote), 11 (quote), 22. Also, the Constitution repeated the provision of the law on national minorities regarding educational rights (Art. 53).

⁵³ In 1999, the government submitted its first report on the convention's implementation (The report 1999), while a Crimean Tatar NGO submitted an alternative critical account (Parallel Report 1999).

⁵⁴ Ukraine was one of the founding states of the CIS in December 1991. However, in January 1993, it refused to sign the organisation's charter, and was considered its associate member. While avoiding integration into crucial structures of the CIS (first of all, those intended to be supranational ones), Kyiv accepted a number of less 'dangerous' agreements, mostly on economic and humanitarian issues. Bukkvoll 1997, pp. 63ff; Solchanyk 1998, pp. 28f.

Restoration of Rights of Deported Persons, National Minorities and Peoples, signed in October 1992 in Bishkek, envisaged co-operation between the parties on the repatriation of deportees.⁵⁵ As Ukraine was interested in implementing the agreement, enabling it to share its heavy financial burden, it ratified the document in December 1993. However, Kyiv failed to make other states ratify or implement it (see chapter 3). In contrast, the Convention on Ensuring the Rights of Persons Belonging to National Minorities of October 1994, which Ukraine signed with reserve, was not ratified by the Verkhovna Rada.⁵⁶ Finally, the mutual protection of respective minorities' rights has been stipulated in Ukraine's basic treaties with several states, including Russia, as a major aspect of bilateral co-operation.⁵⁷

In order to promote the implementation of the declared rights of minorities, standing committees on inter-ethnic relations were established in the Verkhovna Rada and in representative bodies at all levels. When elected to one of these bodies, minority members often choose to join such a committee in order to be able to lobby for their groups more effectively, thus preventing the committees from taking a nationalising stance. In 1998, the parliament established an office for the Commissioner on Human Rights (ombudsman), but the incumbent commissioner did not seem to pay much attention to ethnic problems. Within the executive, the State Committee on the Matters of Nationalities and Migration was formed and put in charge of the co-ordination of various ministries' efforts aimed at meeting the demands of minorities. Its tasks also included the elaboration of draft legislative and normative acts, as well as monitoring the implementation of valid ones. In early 2000, the committee was reduced to a department within the ministry of justice but then was restored as a separate structural unit within the government two years later. The law on national minorities also provided for establishing a council of minority associations' representatives to act as an advisory body under the state committee. The council serves as a channel of communication between the government and minority associations, as well as to co-ordinate their activities. Additionally, several intergovernmental bodies were established in accordance with the above-mentioned bilateral treaties.⁵⁸

The implementation itself was, to a considerable degree, hindered by the severe economic crisis in Ukraine, which resulted in insufficient funding on part of the state and minority members themselves. Moreover, Bureaucratic obstacles to the realisation of minority initiatives were not an exception. It should be noted, however, that these two factors also influenced the implementation of measures aimed at the ethno-cultural 'revival' of Ukrainians. To a certain degree, the central authorities favoured the titular nation, the local ones the respective dominant ethnic and linguistic groups. Nevertheless, the cultural life of many ethnic groups has expanded significantly, transforming the titular-Russian dichotomy of the six last Soviet decades back to the diversity of the 1920s or the independent Ukrainian state of 1917-1920, whose liberal traditions in dealing with minorities the post-Soviet leadership tried to revive.⁵⁹ Many groups have organised cultural associations, held state-supported conferences and festivals, and published newspapers and books. A specialised state publishing house issued hundreds of book titles in more than 20 minority languages. Television and radio programmes were introduced in several languages on the national level, as well as in regions with compact minority settlements. In addition to full-time state-supported schools with Russian, Romanian, Hungarian and Polish languages of instruction, which were mostly inherited from the Soviet period, schools teaching, either fully or partially, in Crimean Tatar, Hebrew, Slovak and Bulgarian have appeared. The above-mentioned languages, as well as other minority languages, are taught as subjects, and a large number of Sunday schools have been established. Furthermore, various religious confessions have held church services in minority languages. Many local religious communities, where membership consisted mostly of minorities, were given back the church buildings that had been confiscated by the Soviet regime, and a number of priests were invited from respective kin-states. The Ukrainian authorities have not

⁵⁵ Bishkeks'ka uhoda 1992.

⁵⁶ Konventsiiia pro zabezpechennia prav 1994.

⁵⁷ Yevtukh 1997, pp. 39ff; Stepanenko 2000, pp. 323ff.

⁵⁸ Stepanenko 2000, pp. 328ff; Yevtukh [1997], pp. 50f, 164ff.

⁵⁹ There is no authoritative synthetic study of the minority policy of the Ukrainian People's Republic, although several works have investigated the situation of large and active minorities. For the most recent of such works, which deals with the Ukrainian-Jewish relations of that period and the Jewish national-personal autonomy within the Ukrainian state, see: Abramson 1999. The study also outlines a general framework of that state's nationalities policy (pp. 53-66). For the text of a law on the national-personal autonomy for the minorities, which was adopted in January 1918, see: Yevtukh [1997], pp. 131-132.

prevented minority members from pursuing contacts with their ethnic homelands (the law on minorities specifically sets out this right).⁶⁰

The Russians continued to enjoy the scope of ethno-cultural rights beyond any minority standards. Far from being the most successful among the minorities in self-organisation and grass-root activities, they had their cultural demands met by the state. Their demands were also, due to the size of the group, met by the market sectors of both Ukraine and Russia. As far as language is concerned, the Russian minority was clearly in a privileged position. On the one hand, the language law provided for continued use of Russian in a number of fields. On the other, the implementation of the law's 'Ukrainianisation' provisions remained limited, and knowledge of Ukrainian was not made a criterion for obtaining and retaining jobs in the public sector. The Russians could hence use their language both as employees and customers. The national share of school children in Russian-language classes remained much higher than the percentage of the group in the whole population. Russian was also widely used in institutions of higher education.⁶¹ In the predominantly Russophone regions it, in effect, remained the sole public language. As will be argued below, the domination of the Russian language in some fields has even increased during the years of independence.

At the same time, both legislation on ethnic and linguistic matters and practices of implementation in some perceptible spheres, such as education, were aimed at demoting the largest of minorities to the level of the others and at 'de-Russifying' the Russophone citizens of other ethnic origin. Actually, such an orientation was inherent in constitutional and legislative provisions on the state's obligations with regard to the minority cultures and languages, as they failed to stipulate any special linguistic or cultural role for Russians, or to recognise any rights of (persons belonging to) linguistic - as distinct from ethnic - groups. It comes as no surprise that many Russophones perceived it as discrimination in the making and, therefore, a violation by the Ukrainian leadership of their pre-referendum promises. Activists of Russian organisations expressed disagreement with applying the term 'minority' to their group, claiming to the recognition of its autochthonous nature. The disagreement was given a political manifestation in the form of a demand for special status for the Russian language (an official one, as it was called). This demand was most popular, paradoxically enough, in the eastern and southern regions, where cultural rights of Russophone citizens were in no case infringed upon. Supported by local elites, who tried to wrest more power from Kyiv, it soon developed into a cornerstone of unequivocal opposition of those regions to the 'nationalist' policies of the central government. In 1994, this became a major political problem for Ukraine, resulting, in particular, in the HCNM's involvement. During the following years, a correction of Kyiv's policy helped dissipate the fears of 'forcible Ukrainianisation', and the deepening economic crisis averted the citizens' attention from linguistic matters. However, the problem of finding a compromise between overcoming legacies of Russification and ensuring the human rights of the Russian-speaking population was not solved (see chapter 4).

While Ukraine's regional diversity made it nearly impossible to implement nationality and language policies uniformly, the situation in Crimea stood in a sharp contrast to the rest of the country. This was pre-determined not only by the peninsula's peculiar ethnic profile and Soviet tradition of unrestricted monopoly of the Russian language in public life, but also by a specific (ethno-)political context, only to a limited degree influenced by the Ukrainian-wide framework. The autonomy provided the Crimean authorities with significant latitude in a number of fields (in particular, humanitarian ones), which Kyiv was cautious to infringe upon as it might instigate a separatist orientation. On the other hand, weakness of the central state and lack of rule of law virtually precluded implementation of the Ukrainian legislative norms and administrative priorities on the peninsula during a major part of the period under consideration. As a result, not only was the status or role of Russian not demoted, but ethno-cultural demands of the Ukrainian/Ukrainophone population were also met to a no higher degree than they were during the Soviet decades. Moreover, the state language of Ukraine, although declared one of the three state languages of the Crimean autonomy (along with Russian and Crimean Tatar, the former being the only one granted an additional status of an official language), was not at all introduced for official or public use. Even the power bodies' correspondence with Kyiv was in

⁶⁰ Yevtukh 1997, pp. 42-50; Drohobychky 1995b, pp. 18ff; The report 1999, pp. 13-30.

⁶¹ Arel 1995a, pp. 601-610; Arel 1995b, pp. 174ff; Solchanyk 2000, pp. 544f.

Russian, and the Ukrainian media was largely blocked. The most perceptible peculiarity of the ethno-political situation in the region was, however, the massive influx and troublesome integration of the formerly deported population, as well as the struggle of the Crimean Tatars to assert their rights as the indigenous people. Otherwise, the peninsula for a long time remained, in a sense, a part of the USSR/Russia, given the cultural orientations, informative ties and Moscow's influence on the Crimean elites and masses.

1.5 The Russian Federation's Policy towards Ukraine and its Russians

Since the Crimean Tatars have no ethnic homeland outside Ukraine, the Russian Federation (RF) is the only kin state relevant to this study. Its presence on the Ukrainian ethno-political scene is not limited, however, to the role of the largest minority's kin state. More important is Moscow's role as the former imperial metropolis. Centuries of coexistence in the common state and Moscow's policy, intended to strip Ukrainians of their distinctive features, has led most Russians, and also many Ukrainians themselves, to see Ukrainians as an inseparable part of the Russian people. Soviet institutionalisation of ethnicity has failed to eliminate this perception. At the same time, for the Ukrainian nationalists and, to a degree, for the post-imperial Ukrainian state, the former imperial centre has become "their primary source of negative identity": "Ukraine is that which Russia is not".⁶² It was in this capacity that Russia threw many obstacles in the way of Ukrainian state- and nation-building, including those hindering integration of ethnic Russians into Ukrainian society and the implementation of their linguistic and cultural rights.

Actually, as an initiator of a radical re-distribution of powers between the Moscow centre and the Union republics, in favour of the latter, the leadership of the Russian Federation, headed by President Boris Yeltsin, promoted the realisation of sovereignty projects by other republics. However, the sovereignty desired by Russian 'democrats' by no means presupposed the other republics' separation from the USSR. This primarily concerned Ukraine, given the crucial importance of 'Slavic unity' and 'Kyiv roots' for the propagandised 'revival of Russian statehood'.⁶³ After the Ukrainian population overwhelmingly supported independence, Yeltsin was prompt to recognise the new state and sign the Belavezhskaia Pushcha agreement, putting an end to the existence of the USSR. However, these moves were aimed at creating a modified union, which Ukraine would be willing to join. In the CIS, Russia at first attempted to preserve some essential features of a state (e.g. united armed forces). Even when this attempt failed, mostly due to Ukraine's flat rejection, the Russian leadership was nevertheless reluctant to treat other former Soviet republics as 'normal' foreign states, and in particular, to recognise borders with them as inter-state ones. In this reluctance, striving for the preservation of some control over the 'brother republics' was combined with concern for compatriots living there. In other words, the Russian elites were not ready to 'contract' their perception of Russia to the RF territory. Instead, they sought to preserve (or re-establish) some kind of a political and cultural unity in the post-Soviet space. Since there was a considerable gap between their aspirations and the resources available, these aspirations mainly manifested themselves in rather aggressive rhetoric. This rhetoric was intended not only to prevent new independent states from discriminating against the ethnic Russian population and to reassure this population of Moscow's concern, but also (or even primarily) to evoke popular support at home. However, the reform-oriented executive, in the first years after Gorbachev's demise, preferred to focus on the consolidation of its power in the inherited territory, and on establishing good relations with the West, which firmly insisted on the inviolability of the post-Soviet borders. Moreover, one of its priorities regarding the three largest successor states (Ukraine, Belarus, and Kazakhstan) was to ensure that they give up former Soviet nuclear arms that were deployed on their territories. This priority was pursued in more or less concerted efforts between Russia and the West, as exemplified by the Trilateral Agreement on Ukraine's strategic nuclear disarmament, concluded by Kyiv, Moscow and Washington in January 1994. In contrast, the much more conservative legislature

⁶² Motyl 1993, p. 99. On Russia as the main perceived threat to Ukraine's independence, see: Strekal 1994, p. 10; Moshes 1995, pp. 29ff.

⁶³ Kulyk 1996; Molchanov 1996.

asserted its opposition to Yeltsin by stressing Russia's interests in the 'near abroad', and declaring its own resolution to gain back what he had allegedly lost.⁶⁴

With regard to Ukraine, Crimea was the most important point in both a geopolitical and ethno-nationalist sense. Furthermore, the region's population had the most reserved attitude towards Ukrainian independence, and there were even some legal grounds (although very dubious) for Moscow's territorial claims. As early as January 1992, the Russian Supreme Soviet questioned the 1954 transfer decisions and, with that, Ukraine's current jurisdiction over the peninsula. At the same time, the lawmakers rebuffed Kyiv's claims to the Black Sea Fleet, based on it being situated on Ukrainian territory, which was the common principle for successor states inheriting former Soviet property. Many influential Russian politicians deemed it necessary to maintain the fleet, which was viewed as a strategic instrument for control over Crimea, and the Black Sea region in general, and as a symbol of the historical continuity of Russia as a great power. Yeltsin, although he did not support the parliament's overt claim to the whole of Crimea, presented himself as a resolute defender of Russian military presence in Sevastopol, where the fleet's main headquarters was located, and which had traditionally been labelled 'city of the Russian glory'.⁶⁵ Militant statements from many Russian politicians visiting the peninsula instigated Crimean separatism. Its proponents believed that Moscow would support it by all possible means. In particular, this seemed to be a stimulating factor behind the Crimean parliament's decision to react to Kyiv's refusal to grant substantial powers to the autonomy by proclaiming its independence in May 1992 (see section 2.1). While the governments of the two states engaged in a long and painful process over the fleet division, the Russian parliament continued to revise the 1954 decisions, taking a number of provocative steps. These culminated in the notorious resolution of July 1993, which declared a 'Russian federal status' for Sevastopol. Although the Russian executive immediately renounced the move, the international community, including the United States and the UN Security Council, publicly criticised Moscow for violating internationally accepted norms.⁶⁶ The Supreme Soviet was disbanded by Yeltsin in September 1993, but the new parliament, the State Duma, was no less inclined to manifest its concern for the great powers' interests in general, and Crimea's fate in particular. Thus, in 1995, it tried to prevent Kyiv from taking radical measures with regard to peninsular separatism by issuing statements warning that this could jeopardise the signing and ratification of a long-awaited friendship treaty between the two states. Although the executive initially argued that the Crimean problem was an internal matter of Ukraine, in the end, Yeltsin supported this warning.⁶⁷

A more pronounced nationalist orientation in Russian foreign policy, which became visible after the parliamentary elections of December 1993, was reflected, in particular, in the radically increased involvement in matters of the 'near abroad'. Moscow tried to establish its domination throughout the territory of the former USSR by forcing most of the states to more or less perceptible concessions, and by activating the integration process within the CIS.⁶⁸ The concern for 'compatriots abroad' could be used both as a good pretext for seeking regional hegemony and as an effective instrument for answering/arousing nationalist sentiments at home. In January 1994, Foreign Minister Andrei Kozyrev declared that the protection of the rights of compatriots in the post-Soviet states was "the main strategic task of Russia's foreign policy".⁶⁹ At first, Moscow tried to fulfil this task by means of realising the idea of dual citizenship that was put forward in 1993. It was to act as a means of obtaining a 'civilised' ground, defined in civic rather than ethnic terms, for protecting the rights of the ethnic Russian/Russophone population in the 'near abroad', as well as to curb the flow of migrants to Russia, since the government lacked money for their resettlement and social adaptation. However, the Yeltsin administration failed to get a provision on dual citizenship included in its basic treaties with the three states that hosted the largest amounts of Russians, Ukraine, Kazakhstan and Belarus. Moscow did make it much easier to acquire Russian citizenship for those former citizens of the USSR who were moving to the RF by broadening the categories of individuals who could automatically become citizens. However, it was forced to deny the same rights to those who preferred to stay 'abroad', in view of

⁶⁴ Kulyk 1996, pp. 17f; Motyl 1993, Ch. 4; Solchanyk 1994, pp. 47ff; Bukkvoll 1997, pp. 68ff.

⁶⁵ Solchanyk 1994, pp. 52ff; Solchanyk 1998, pp. 26ff.

⁶⁶ Solchanyk 1995, pp. 9f.

⁶⁷ Ibid., pp. 3f, 10f.

⁶⁸ Aron 1998, pp. 26f, 33ff; Kulyk 1996, pp. 19f.

⁶⁹ Quoted in: Zevelev 1996, p. 269.

strong opposition by many successor states, Ukraine in particular. It soon became apparent that very few Russians wanted the kin state's citizenship at the price of losing that of their state of residence.⁷⁰

Thus, Moscow had to be content with supporting the Russian-speaking population in the countries of the CIS and the Baltics only in their capacity of being 'compatriots living abroad'. Endorsed by the executive in 1994, this concept embraced citizens of the RF, former Soviet citizens who had not acquired citizenship of their host states and those citizens of other states who wished to maintain cultural and other ties with their ethnic homeland in Russia. A governmental programme, adopted in August that year, defined the strategic line of Russia's policy towards the 'compatriots' as promoting their voluntary integration into host societies, and, at the same time, the preservation of their distinctive culture. The document suggested that Moscow use international human rights instruments and, in extreme cases, economic pressure to defend them. The programme's authors avoided indicating that it had been designed for ethnic Russians only. The linguistic oxymoron, *etnicheskie rossiane*, was used instead to refer to members of all nationalities whose ethnic homelands lay in the territory of Russia. However, most of the measures envisaged in the programme and consequent documents of state agencies were aimed at supporting Russian language and culture, not only as those of the RF's largest ethnic group, but also as a cohesive means of (post-)Soviet civilisation. Indeed, many paragraphs were addressed to the demands of the Russian-speaking rather than the ethnic Russian population.⁷¹ In 1999, based on the above programme, a law on Russia's policy with regard to the 'compatriots abroad' was adopted.⁷²

At the same time, Russia tried to solve the problem of its diasporas in the 'near abroad' within the framework of the CIS, seeking to make the defence of human and minority rights one of its major policy directions. Since Moscow's partners often perceived its efforts as an attempt to acquire additional means of intervening in their domestic affairs, documents that were signed addressed the problems of individual rather than group rights. The Convention on Securing the Rights of Persons Belonging to National Minorities (October 1994), as well as the Convention on Human Rights and Fundamental Freedoms (May 1995), stipulated that the CIS states were obliged to respect the right of minority members to express, maintain and develop their distinctive ethnic, linguistic and religious cultures. On the one hand, such documents favoured Russophones, allowing them to maintain the privileged position of their culture that they had inherited from the Soviet period, discouraging (potentially) nationalising states from 'de-Russification' policies. Aimed at resisting forcible assimilation, their provisions promoted the preservation of huge Russian diasporas, and, therefore, of Russia's long-lasting presence in the 'near abroad'. On the other hand, these documents provided almost no legal ground for governments to support ethnically related minority communities in other countries.⁷³ In any case, all these acts remained declarations only.

Not surprisingly, many Russian political actors considered such a moderate approach harmful to the interests of both Russia and its diasporas. Opposition was vocal mostly in the Duma, where some factions sought to make the defence of the rights of 'compatriots' abroad an instrument for gaining more political influence within Russia. The lawmakers' pressure urged the government to make militant statements, such as Kozyrev's sensational argument of April 1995 that "there may be cases when it would be necessary to use military force in order to protect our citizens and compatriots abroad"⁷⁴. The government was also pressured to take a tougher position in negotiations with the post-Soviet states. However, on the one hand, the Kremlin never dared to overtly intervene in the internal matters of successor states, which would mean violating its international obligations. On the other hand, it preferred to support Russia's economic and military interests rather than the rights of its 'compatriots'. Thus, when in 1997 an agreement was reached with Kyiv on the Black Sea Fleet issue, Moscow chose to sign the long-postponed friendship treaty even though it neither contained provisions on dual citizenship nor on the status of the Russian language in Ukraine. Moreover, the treaty stipulated, among other provisions on protecting the minorities' rights, that the two states would "encourage the creation of

⁷⁰ Zevelev 1996, pp. 266ff; Sud'by 1995, p. 113; Moshes 1995, p. 50, fn. 7.

⁷¹ Zevelev 1996, pp. 272f.

⁷² Federal'nyi zakon 1999.

⁷³ Zevelev 1996, pp. 274f; Konventsiiia pro zabezpechennia prav 1994.

⁷⁴ Sud'by 1995, pp. 116-117.

equal opportunities and conditions for learning the Ukrainian language in the Russian Federation and the Russian language in Ukraine"⁷⁵. It thus gave Kyiv grounds to neglect complaints of the Russophones, and ignore criticism from their defenders in Moscow regarding the Ukrainian state's nationalising practices, for Ukrainians in the RF had much more limited educational opportunities to preserve their distinctive ethno-cultural identity. This provision was criticised by nationalist deputies in the Duma, as well as by radical Russophone representatives in the Verkhovna Rada, but the majority preferred to ratify it as a legal basis of bilateral relations and/or a symbol of friendship between the two peoples. In the upper house of the Russian parliament, the treaty met with strong opposition, but was finally ratified in February 1999 with characteristic reservation: The treaty would only come into force once the Ukrainian lawmakers approved the fleet agreements, which the latter did a month later.⁷⁶

That did not mean, however, that Russia had given up its plans or stopped issuing statements, which Ukraine was inclined to understand as intervention in its domestic affairs. When Vladimir Putin assumed the presidential post in January 2000, Moscow began to actively promote elevating the status of Russian to an official one in other post-Soviet states, or within the CIS framework. This was seen as a primary means of protecting the rights of 'compatriots'. While seeking to enhance the role of Russian as an anchoring mechanism within its own country and even beyond its borders, the Russian authorities criticised similar moves by other successor states with regard to their titular languages, qualifying those moves as violating the rights of the Russophone citizens to preserve their identity. As far as Ukraine is concerned, the language of preference was held to be the primary indicator of identity, thus enabling Moscow, as one author posed it, "to redefine a majority of Ukrainians as the 'Russian-speaking population'".⁷⁷ A new foreign policy concept, aimed at Russia's reappearing as a great power, which was signed in July 2000, included the protection of 'compatriots' as an important dimension. Its presentation by the Russian ambassador in Kyiv was accompanied by the accusation that the Ukrainian authorities encouraged Russophobic actions of radical nationalists, which evoked a resolute protest of the Ukrainian foreign ministry.⁷⁸ Soon, however, as Moscow took advantage of the Ukrainian leadership's political vulnerability to wrest another batch of (mostly economic) concessions, the same ambassador was prompt to assert that the situation of the Russian language in Ukraine had improved markedly, and that it was no longer in an "oppressed state".⁷⁹

To sum up, Russia's presence on the Ukrainian ethno-political scene has neither contributed to a compromise between the main actors on that scene, nor to ensuring the Russian/Russophone population's rights. The Russian policy-makers saw the defence of 'compatriots' as an instrument, not a goal, of Moscow's domination in the post-Soviet space, and/or as a card in the internal political game. Hence, the problem was mostly presented as solvable only in the context of the reintegration of (a part of) that space. It thus detracted efforts from the promotion of Russians' civic rights and ethno-cultural activity in their host states, as well as sent false and harmful signals to the diasporas and the states. Militant statements and promising decrees, emanating from Moscow, evoked hopes of restitution in the former imperial people, and/or instigated them to separatist actions. This impeded their integration into host societies and their adaptation to local culture. This destabilising role was most visible in Crimea, where it took a rather long time for masses and elites to come to terms with the post-Soviet geopolitical reality and to start seeking a solution for their social and cultural problems within the Ukrainian context. However, also for Russophone residents of other regions, Moscow's failure to draw the line between preserving their ethno-cultural identity and maintaining the exceptional scope of linguistic and cultural rights contributed significantly to their perception of Kyiv's policy as discriminatory. On the other hand, support of Russophone separatism by influential actors in Russia urged Ukrainian policy-makers to perceive it as a serious danger for territorial integrity and political stability, evoking prejudiced and combative reactions on their part. Also, Moscow's 'imperial' stance instigated Kyiv's 'anti-imperial' attitude that challenged the civic, rather than the ethnic, nature of the Ukrainian state. This exacerbated the Ukrainian Russians' psychological discomfort and provoked violation of their

⁷⁵ Treaty on Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation 1997, Art. 12.

⁷⁶ Holos Ukrainy, 26 December 1998, pp. 1, 5; 18 February 1999, p. 1; 25 March 1999, p. 2.

⁷⁷ Jamestown Monitor 2000a. See also: Kuzio 2000.

⁷⁸ Kuzio 2000; Zam'iatin 2000a, 2000b.

⁷⁹ 1+1 TV news, 24 January 2001.

cultural rights.⁸⁰ Finally, lack of capital in the budget, poor co-ordination of activities of various state agencies and widespread corruption among officials further limited Russia's support for diaspora organisations. It is no wonder that many Russian activists in Ukraine denounced Moscow's erroneous priorities in dealing with compatriots and indifference towards their needs.⁸¹

1.6 General Description of the HCNM's Involvement

The international community is another major actor influencing the Ukrainian ethno-political situation. Many international organisations, including the United Nations, the OSCE, and the Council of Europe, have contributed to protecting the rights of persons belonging to Ukraine's ethnic minorities. One could add the CIS to this list, but its role was somewhat different, as mentioned above, for Russia tried to use it as an instrument of domination throughout the territory of the former USSR. Some influence has been exerted by separate states, primarily the kin-states of major minorities living in Ukraine, as well as several other states that consider the world-wide promotion of human and minority rights one of their political priorities. In contrast, two other important international actors, the EU and NATO, whose pressure significantly contributed to settling ethno-political conflicts in several post-communist states seeking admission to these organisations, mostly focused their dealings with Ukraine on economic, military and democratisation fields, where their interests were more directly engaged and where Kyiv's records more at odds with Western standards.⁸²

As for the minorities covered by this study, the international community has first of all been concerned with the problems of the Crimean autonomy, including securing the ethno-cultural rights of Russians, as well as the integration of the Tatars into Ukrainian/Crimean society. The United Nations Development Programme (UNDP), in collaboration with several other international organisations and donor countries, established a special Crimea Integration and Development Programme in 1995. This mostly deals with the social problems (issues such as housing, medical care, schooling, and employment) of returnees.⁸³ Since 1996, the office of the United Nations High Commissioner for Refugees (UNHCR) has played an active role in solving the problems of the Crimean Tatars and other former deportees. The International Organisation for Migration (IOM) is another agency, which was involved in solving these problems. The Council of Europe, in addition to promoting overall democratisation of Ukrainian legislation and practices, in particular by urging Kyiv to ratify and implement the two above-mentioned documents on ethno-linguistic matters, raised the problem of Crimean Tatars' political rights (see chapter 3). The most long-lasting and all-embracing involvement, however, has been that of the OSCE, represented, as far as ethno-political problems are concerned, by its High Commissioner on National Minorities and a long-term mission. The Mission worked from November 1994 to April 1999, after which it was transformed into the Office of the OSCE Project Co-ordinator.⁸⁴

Ukraine was not amongst the first countries which Max van der Stoel visited after assuming the post of HCNM in January 1993. In Latvia, Estonia, Slovakia, Romania and Macedonia, violation of their respective largest minorities' rights seemed to be more evident, and conflicts between nationalising states and those minorities, as well as their kin states, more imminent. Towards the end of the year, however, the mainly Russian-speaking regions' discontent with Kyiv's policies developed into opposition to the central authorities, and the Crimean separatists increasingly challenged Ukrainian jurisdiction over the peninsula. As a result, the High Commissioner came to feel it was expedient to intervene. In the case of Crimea, tensions involving ethnic minorities were developing into a conflict between the central government and a minority region's authorities, as well as between the latter and another minority. The irredentist inclinations of many policy-makers of their respective kin-state, and its military presence in that region (the Black Sea Fleet was at the time far from having been divided), also pointed to the risk of confrontation between the two states. Moreover, as one of his advisors suggests, the HCNM's initial contacts with the Ukrainian authorities, in autumn 1993, were prompted by

⁸⁰ See also: Furtado 1994, pp. 101f.

⁸¹ See e.g.: Shul'ga 1999, pp. 15f; Malinkovich 1997, p. 35.

⁸² For a discussion on Ukraine's relations with these organisations, see: Alexandrova 1998; Larrabee 1998.

⁸³ UNDP 1995.

⁸⁴ For an analysis on the Mission's activity, see: Büscher 1999, 2000.

an open letter from the Ukrainian Foreign Minister Anatoly Zlenko to all CSCE participating states, which was issued on 14 July, immediately after the Russian Duma's above-mentioned claim to Sevastopol.⁸⁵ In February 1994, van der Stoel visited Kyiv for the first time. During his second visit, in May of that year, he also held meetings in Donetsk and Simferopol. A team of experts on constitutional and economic matters soon followed his entrance on the Ukrainian ethno-political scene. The CSCE Committee of Senior Officials (CSO) decided on 15 June to send the team to Ukraine in accordance with the High Commissioner's recommendation. Besides, the impressions he gained must have been an important factor behind the initiative of the Chairman-in-Office to establish a long-standing mission of the CSCE in Ukraine. The same meeting of the CSO approved the initiative, by then agreed upon with the Ukrainian government. Both teams were to help, *inter alia*, the HCNM in his conflict-preventing activity, each in its own way. The experts, appointed on 1 August 1994, visited Ukraine three times over the next five months, and presented van der Stoel with reports on their findings. The Mission was tasked with supporting both the expert team and the High Commissioner, first of all by establishing contacts with relevant political actors in the host country, and by gathering information on all aspects of the situation in Crimea (its headquarters was in the capital, and a branch office was located in Simferopol).⁸⁶ At the same time, Kyiv's reluctance to allow the Mission a potentially intrusive role resulted in considerable limitations on the scope of its activities.⁸⁷

In his first formal letter with recommendations to the Ukrainian government, dated 15 May 1994, the HCNM suggested measures concerning 1) linguistic rights of the Russians; 2) powers of the Crimean autonomy; and 3) integration of the Crimean Tatar returnees.⁸⁸ The first point was not repeated in the following recommendations; the other two became their invariable subjects. As the High Commissioner's involvement in Ukraine was focused on the Crimean and Crimean Tatars' problems, each of his visits included, as a rule, meetings in Kyiv and Simferopol. In the capital, the High Commissioner's frequent interlocutors were the top state leadership (the president, chairman of the parliament and prime-minister), heads of the relevant parliamentary commissions, including an ad hoc commission on the situation in Crimea, deputy prime minister in charge of humanitarian issues, and the ministers (or deputy ministers) of foreign affairs, nationalities and migration, justice, and education. In Simferopol, van der Stoel usually communicated with the chairman and deputy chairmen of the parliament, the representative of Ukraine's president, the Crimean government's officials in charge of the returnees' problems, and leaders of ethnic organisations and associations, primarily the Kurultai/Mejlis and the Russian Community.⁸⁹ Furthermore, he organised, in co-operation with the OSCE Mission, two round table talks between representatives of the central and Crimean authorities on a compromise status for the autonomy (in May 1995 in Locarno, Switzerland; and in March 1996 in Noordwijk, the Netherlands). The HCNM and the Mission also organised a round table on the integration of the formerly deported peoples into Crimean society (in September 1995 in Yalta, Crimea). At the same time, van der Stoel took an active part in a donor conference, held by the UNDP in April 1996 in Geneva, to raise funds to meet the humanitarian needs of the returnees. In June 1998 and December 2000, he organised, in a co-operation with the UNHCR, the UNDP and the OSCE Mission, two follow-up donor conferences in Kyiv. The total sums pledged by a number of the OSCE and other states were much larger than in 1996, amounting to 10 million US dollars. The HCNM also initiated some programmes aimed at the educational problems of returnees, such as creating multi-cultural home schools in remote (mainly) Tatar settlements, which the UNDP and the Ukrainian government have been implementing since the end of 1997.⁹⁰

⁸⁵ Packer 1998, p. 306. Another author implies that the establishment of the OSCE missions to Ukraine and two Baltic countries had much to do with the West's striving "to provide a buffer to protect the states vis-à-vis the instability and unpredictability of the Russian Federation" (Cohen 1999, p. 97). At the same time, it should be noted that the Russian government initially welcomed the OSCE's involvement as an instrument of protection of the Russophones' rights. See Kozyrev's statement in: Sud'by 1995, p. 113.

⁸⁶ Packer 1998, pp. 306-308; Büscher 1999, pp. 2f. For the text of the Mission's mandate, see: Permanent Committee Journal, 31/1994, Annex.

⁸⁷ Büscher 1999, p. 3.

⁸⁸ Letter by van der Stoel to Zlenko, 15 May 1994.

⁸⁹ See OSCE Annual Reports and OSCE Newsletters, 1994-2000.

⁹⁰ OSCE Annual Reports, 1995-2000; Sereda 2000; Golos Kryma, 15 December 2000, p. 1.

Finally, in 1999 the High Commissioner once again got involved with Ukrainian problems at the national level, i.e. with problems not limited to the Crimean peninsula.⁹¹ In September, he chaired a seminar in Odessa on the linguistic and educational rights of national minorities. The seminar was organised by the Foundation on Inter-Ethnic Relations, and participants included representatives of various minority associations, as well as governmental officials and independent experts. During subsequent meetings in Kyiv, the Ukrainian government requested that the HCNM organise a conference on Ukrainians in the RF and Russians in Ukraine.⁹² The conference was to be held in Moscow in December 1999, but did not take place because of a lukewarm attitude from relevant Russian authorities, which was partly caused by an imminent parliamentary election in the country.⁹³ In June and July 2000, however, the HCNM paid two visits to Ukraine, aimed at studying the problems of Russians. During the first visit, he did not limit his route to Kyiv and Simferopol, but went to as many as three other major Ukrainian cities to meet regional officials, activists of the Russian organisations and diplomats of the RF consulates. Moreover, in September of that year he continued his work by visiting Russia with the main goal of investigating the educational opportunities of Ukrainians.⁹⁴ In January 2001, the High Commissioner presented his recommendations to the governments of the two states.

In comparison to his activities in some other post-communist states, in Ukraine van der Stoel was especially careful about confidentiality and the formality of his involvement. While not completely avoiding contact with the media, he never went into the substance of his activity, and usually only described the purpose of his visit and the parties consulted. He almost never considered it expedient to make public statements about his assessment of the situation in the country and the positions of relevant actors.⁹⁵ This tactic was all the more reasonable, because his rare statements were misinterpreted by the parties involved. Even his silence was often presented as evidence of agreement with what had been said and done (see below). In contrast to his actions in some other states, he resorted neither to issuing common statements and recommendations together with officials of other international organisations (e.g. the CoE), nor to formally addressing key political actors. The only channel of the HCNM's formal involvement has been his recommendations, addressed to the minister for foreign affairs⁹⁶, as a representative of the Ukrainian government. On (the usually explicit) request of the High Commissioner, the texts were then sent to the Verkhovna Rada, as well as to the government and the parliament of the Crimean autonomy. However, messages were not always duly distributed even among the relevant officials of the central government itself.⁹⁷ The general public was mostly unaware of the content of the recommendations, since they were neither published, nor, as a rule, even referred to by relevant actors.⁹⁸ Most replies from the Ukrainian foreign ministers lacked substantive answers, resorting instead to the formulae of courtesy, as well as accusations of dangerous moves by Crimean separatists. One reason for this behaviour could be the government's failure to formulate an official attitude towards the recommendations, since suggestions of various central agencies, not to mention those of the Crimean autonomy, significantly differed from each other.⁹⁹

Six recommendations were issued between May 1994 and February 1997. Afterwards, the HCNM continued visiting Ukraine quite often, but sent no written suggestions to the Ukrainian authorities until the above-mentioned letter of January 2001. It seems somewhat strange, since only one of the three

⁹¹ In May 1997, he also discussed, with his interlocutors in Kyiv, Ukraine's relations with Romania and Moldova, but this did not result in visible involvement in the problem. OSCE Newsletter, 5/1997, p. 14.

⁹² OSCE Newsletter, 9/1999.

⁹³ Interview with Troshchynskyi, 4 December 1999.

⁹⁴ OSCE Newsletter, 7-8/2000, 10/2000; Aksaniuk 2000; Golos Kryma, 30 June 2000, p. 1.

⁹⁵ On his general pattern in dealing with the media and use of public statements, see: Kemp 2001, pp. 42, 79-83; Zaagman 1994, p. 125.

⁹⁶ The post was held by Anatoly Zlenko until August 1994, then by Hennady Udovenko until April 1998, and thereafter by Borys Tarasyuk until September 2000, when it was reassumed by Zlenko.

⁹⁷ For instance, Mykola Shulha (Nikolai Shulga), minister of nationalities and migration in 1994-1995, claimed that he had not seen the text of May 1995, even though this was suggested by the talks of the Locarno round table, in which he had participated. Interview, 22 September 1999.

⁹⁸ On one occasion, a Crimean Tatar newspaper published the High Commissioner's letter. It was presented as evidence of support for the Tatar demands from international organisations. Interview with Budzhurova, 22 October 1999. A curious revelation by a Russophone newspaper concerning the fact that recommendations regarding the rights of the Russian-speaking population were presented by the HCNM to the foreign ministry as early as six years ago, clearly indicates the lack of information about van der Stoel's activity, even among those interested to obtain it. Kornilov 2000c.

⁹⁹ Interview with Kryzhanivsky, 31 August 1999.

main problems could be considered more or less resolved (to a degree, due to the High Commissioner's efforts), namely that of the relations between the central government and the Crimean authorities. The conflict potential, stemming from the Russians' discontent with the language policy, did considerably diminish during Kuchma's presidency, and might not have needed the HCNM's involvement until its subsequent reactivation by Moscow. However, the Crimean Tatar problem became, at least for some time, even more urgent when the group lost its representation in the autonomy's parliament in spring 1998. However, van der Stoep did not terminate his efforts to settle the conflict for nearly three more years, after which he focused his attention on the Russians.

At any rate, the Tatar leaders have evaluated the HCNM's contribution as rather important, first of all, because he managed to draw the attention of the international community to the needs of the formerly deported people. His efforts resulted in a breakthrough in the struggle for citizenship for all returnees, and in the launching of some programmes that were intended to promote their integration into Crimea. Moreover, the HCNM consistently urged Kyiv to do its best to solve the problem of the Crimean Tatar people, and greatly contributed to the awareness of its urgency on the part of the Ukrainian authorities.¹⁰⁰ In contrast, activists of Russian associations, as well as leaders of the Crimean autonomy, mostly considered van der Stoep indifferent to the problems of Russians, and/or biased in favour of the Tatars and the central government.¹⁰¹ The latter, however, has not always been happy with his activity, either. This activity is believed by some officials to be intervention in Ukraine's internal affairs, and a demonstration of the government's inability to settle its problems. Besides, the HCNM has not been very supportive of Kyiv's policies. For the same reasons, the foreign ministry strongly pushed during the last years for the closing of the OSCE Mission in the country until it finally achieved its goal in spring 1999.¹⁰² On the other hand, many relevant actors both in Kyiv and in Simferopol have recognised, while interviewed within the framework of the present project, that van der Stoep's actions had been very wise and impartial, and had not only made a valuable contribution to solving most serious ethno-political problems, but had also facilitated the adaptation of Ukrainian politics to European standards.¹⁰³

An equally positive assessment of the HCNM's involvement in Ukraine has been made in most of the scholarly works on the subject. In particular, the High Commissioner's contribution to solving the problem of the Crimean autonomy is widely considered to "represent a successful effort at preventive diplomacy". Hopmann believes that the High Commissioner and the OSCE Mission to Ukraine helped "partially resolve the political issues underlying the Crimean dispute, while preventing its violent escalation".¹⁰⁴ Johansen argues that it is an especially remarkable achievement, given the rather late initial involvement of the HCNM and lack of clear support for his efforts on the part of influential member states of the OSCE.¹⁰⁵ In contrast, Mychajlyszyn questions the prominence of the OSCE's role in preventing/settling the conflict, arguing that it has been "the likely result of more significant factors, such as the influence of Russia".¹⁰⁶ She primarily refers to its "official opposition to Crimea's separation from Ukraine and reunification with Russia".¹⁰⁷ Ozhiganov also downplays this role, but believes that the main reason for such a "disappointing" result was the biased stance of the HCNM and other international actors, "guided by broader motives, in particular the strategy of encouraging any

¹⁰⁰ Interviews with Chubarov, 16 September 1999; and Budzhurova, 22 October 1999.

¹⁰¹ Interviews with Yermolova, 12 October 1999; Oliinykov, 24 September 1999; Tsekov, 22 October 1999; and Gabrielian, 21 October 1999.

¹⁰² Büscher 1999, pp. 5-6; Interview with Magee, 2 November 1999. It is worth mentioning that the High Commissioner was sometimes presented as a preferable form of OSCE involvement in the Ukrainian ethno-political situation. Thus, following the Permanent Council's decision to extend the mission's mandate for a further six months in June 1996, the Ukrainian delegation issued an interpretative statement. While appraising the contribution of the mission in settling the Crimea-related tensions, Kyiv questioned the expedience of maintaining it, and argued that the remaining problems could be dealt with by the HCNM alone. Cohen 1999, pp. 114f.

¹⁰³ The latter point was particularly stressed by Mykola Shulha and Volodymyr Stretovych: interviews, 22 September, 20 October 1999 respectively.

¹⁰⁴ Hopmann 2000.

¹⁰⁵ Johansen 1999, Ch. 7. This thesis will be discussed in more detail in chapter 5.

¹⁰⁶ Mychajlyszyn 1998, p. 42.

¹⁰⁷ Ibid., p. 37. Assessments made by two other authors may be somewhat biased due to their involvement in the process described, as advisor to the HCNM and head of the OSCE Mission to Ukraine respectively: Packer 1998; Kohlschütter 1996. See also fn. 186 in chapter 2.

Ukrainian policy directed against the 'imperial aspirations' of Russia".¹⁰⁸ However, all these arguments are based on investigations conducted within an overly narrow time-frame, for instance, a crisis peak only, or in a limited political perspective, ignoring any differentiation of positions among the Kyiv actors or the impact of an overlapping of the two Crimea-related conflicts. Moreover, lack of information often causes the distorting or misinterpreting of facts. As Büscher correctly points out, "[w]ithout a well based analysis in depth of the OSCE activities and of the political processes in Kyiv, Simferopol and Moscow it is hardly possible to come to any definitive conclusion as to whether this was a substantial or, rather, an insignificant contribution".¹⁰⁹

The chapters below will hopefully begin and stimulate such analysis. Each chapter is devoted to one of the three prominent conflicts that the HCNM dealt with. After briefly discussing the expedience of his involvement, I will proceed to investigate the developments (mostly in Kyiv and Simferopol but, on occasion, also in Moscow and some Ukrainian regions), which determined the changing context of van der Stoel's visible interventions, i.e., visits, round tables and conferences and, most importantly, written recommendations. In this context, scrutiny of the substance and implications of the recommendations on the respective problems makes it possible to evaluate the adequateness of the remedies suggested by the High Commissioner. A detailed analysis of the processes, which can be viewed as attempts at their implementation, enables us to see whether, to what degree, and why the remedies were taken. Most of the study is structured chronologically, and sections presenting the recommendations alternate with those tracing their (non-)implementation. However, a chapter on the Crimean Tatar conflict partly switches to the thematic principle, in order to disentangle simultaneous developments regarding different aspects. Each of the three chapters concludes with remarks on the main achievements and shortcomings of the HCNM's contribution to preventing/overcoming the respective conflict. However, a more detailed discussion of the effectiveness and overall influence of his involvement is left for the final chapter.

¹⁰⁸ Ozhiganov 1997 (quotes on p. 133). Ozhiganov's assessment may partly stem from his reliance exclusively on public statements of the HCNM, as reported by the Ukrainian and Russian media. These statements may have been distorted by his host interlocutors, who often spoke for their silent guest. The analysis below will mostly refrain from judging van der Stoel's attitudes on the basis of such statements, while paying primary attention to his written recommendations.

¹⁰⁹ Büscher 2000, p. 209.

Chapter 2. Status of Crimea

The relevance, or indeed the necessity, of the High Commissioner's involvement in the controversy over the status of Crimea seems to be doubtless. As noted above, the growing tensions between the central government in Kyiv and the peninsular authorities definitely had the potential to develop into an overt conflict. Moreover, it would have been possible that the conflict would turn into an international one, given the Russian Federation's attitudes towards the Crimean problem and its resources for insisting on the realisation of its aims. This case was therefore evidently covered by the HCNM's mandate. At the same time, it was the most pressing (ethno-)political and security problem of Ukraine.

Although minority-related, the Crimean conflict was not, at least not primarily, a conflict between the (majority-dominated) central government and a minority asserting its rights. With adequate representation in the power bodies, and a far-reaching regional autonomy, the peninsular Russians were by no means discriminated against in social and political fields and were able to protect their cultural rights to a much higher degree than the Russophone citizens in any other part of Ukraine. While territorial autonomy was an arrangement with virtually no parallel in the countries of the HCNM's involvement and certainly a dream of many minorities, the Crimean elite, lacking a clear differentiation between Russians and Ukrainians, for a long time rejected an autonomous status. What they strove for was sovereign statehood, a pattern set by moves towards sovereignty by the union republics of the former USSR in the late 1980s. These were then replicated by similar demands made by their constituent autonomous republics, causing considerable tensions in some of the new independent states. The challenge to the central authorities and their centralising ambitions by the regional elite, who had for some time enjoyed considerable mass support, ensued in a struggle between the two for demarcating their powers, with particular regard to the properties at their disposal. It was this challenge that the High Commissioner had to deal with in Ukraine. He was prompt to see this primary point of controversy behind the declarations of the peninsular politicians on the violation of Crimea's (and/or its Russians') rights, and consistently promoted an autonomous arrangement as a compromise solution. The eventual acceptance of this arrangement by Simferopol made it possible to settle the conflict.¹¹⁰

Another important feature of the processes described in this chapter is that they took place in a country which lacked not only experience in democratic politics, but the very constitutional foundations of a democracy. During the years of the most intense confrontation between the centre and the autonomy, the relationship between them was just one aspect of the political structure of independent Ukraine that was to be defined by its first constitution. The controversy between the executive and legislature, as well as within the latter, over the delineation of their competencies and underlying ideological orientations of the state and society, was no less heated. The preferred options of the leading actors of the constitutional process and the strategies that were pursued by them in order to achieve those goals heavily influenced their attitudes toward the Crimean problem and, therefore, the prospects for solving it. The same argument applies to the internal power struggle on the peninsula. Last but not least, it took Ukrainian political elites even longer to agree upon establishing a constitutional court, which was to become a guarantor of the division of powers defined in the constitution.

2.1 Tensions Prior to the HCNM's Involvement (1992 - April 1994)

Van der Stoel's first visit to Crimea, followed by his first recommendation, took place two years after the tensions between Kyiv and Simferopol had for the first time turned into an overt confrontation. On 5 May 1992, the Crimean parliament adopted the Act of State Independence of the Republic of Crimea¹¹¹ and scheduled a referendum on its confirmation for 2 August. While proclaiming the Crimean state a subject of international law, no reference whatsoever was made in the document to the Crimean

¹¹⁰ For an interpretation of the conflict between Kyiv and Simferopol as having been caused by the striving of the peninsular elite for statehood, rooted in the late Soviet period, and finally solved on an autonomous basis, see a programmatic article of the primary Crimean actor in the implementation of the latter approach, Leonid Hrach (Grach 1999). On the perception of autonomy in general, and that of Crimea in particular, see: Packer 1998, pp. 312ff.

¹¹¹ The Republic of Crimea was the post-Soviet name of the autonomy that had been assumed two months earlier.

state's connection to Ukraine.¹¹² This radical step was preceded by a campaign of separatist forces, led by the Republican movement of Crimea, for holding a referendum on the peninsula's independence. The campaign resulted in approximately 250,000 signatures in favour of the idea, much more than was necessary according to the law. Support for the separatist initiative on the part of the Crimeans was instigated by the above-mentioned initiatives of the RF's Supreme Soviet, as well as by visits of Russian politicians to the peninsula and militant anti-separatist statements made by Ukrainian nationalists. Many Crimean parliamentarians favoured the idea of a referendum, and the issue was placed on the agenda of the May session as early as 18 April. However, the immediate impulse for the declaration of independence was the Ukrainian Verkhovna Rada's refusal to pass the draft law "On the demarcation of powers between Ukraine and the Republic of Crimea". The document, which had been preliminary agreed upon by both sides and approved by the Crimean Soviet, defined the peninsula as an autonomous part of Ukraine that independently decided on all matters within its competence. Adopted in its final form on 29 April, however, the law was renamed "On the Status of the Autonomous Republic of Crimea" and was extensively altered to the detriment of the autonomy. While Ukrainian MPs argued that the very concept of demarcation of powers was relevant for relations between equal legal subjects, not between the whole and a part, the amendments made in the final law were resented in Simferopol as the ones that had "factually liquidated the Crimean statehood".¹¹³

In an attempt to soften the anticipated reaction in Kyiv, the Crimean parliamentarians inserted on the following day, at the suggestion of speaker Mykola Bahrov, a special clause in the newly adopted constitution stating that "[t]he Republic of the Crimea is a part of Ukraine and defines the relations with the latter in terms of agreements and treaties".¹¹⁴ The response from the centre, however, was resolute. On 13 May, the Verkhovna Rada declared the act of independence, the resolutions on its taking effect and the referendum unconstitutional, demanding that the Crimean legislature revoke its decisions by May 20.¹¹⁵ There were even calls by various political forces, primarily the nationalists, for the dissolution of that legislature, and for the imposition of direct presidential rule in the peninsula.¹¹⁶ These calls were later to be repeated, becoming increasingly insistent.

This first unequivocal counteract of the Kyiv authorities to 'sovereignisation' of the peninsula was accompanied by a propaganda campaign stressing Crimea's economic dependence on Ukraine, and hence the negative consequences of breaking with, or being blocked by it. This had a sobering effect on the autonomy's leadership and many MPs.¹¹⁷ On 21 May, the Supreme Council annulled the resolution on the declaration of independence, though not the declaration itself, and suspended the resolution on the referendum. At the same time, it proposed that the Ukrainian parliament suspend the law on the Crimean autonomy, and called for a new demarcation of powers between Kyiv and Simferopol.¹¹⁸ This complying of Simferopol with Kyiv's demands,¹¹⁹ even though incomplete, created a possibility for resuming a dialogue between the centre and the autonomy. The Crimean readiness for a compromise was rewarded by reciprocal moves by the Ukrainian authorities. In a few weeks, a revised power-sharing scheme was elaborated by a joint working group, and then agreed upon by the Presidia of the two parliaments. After its approval by the Crimean Supreme Soviet, the Verkhovna Rada of Ukraine passed, on 30 June, an amended law, "On the Demarcation of Plenary Powers between the Organs of State Power of Ukraine and the Republic of Crimea". The law granted the autonomy a significantly broader scope of rights, including the right to own the land and natural resources on its territory. It also, in effect, provided for joint Crimean-Ukrainian citizenship.¹²⁰ However, a proviso was made in an accompanying resolution that the law would come into effect only after the Crimean constitution

¹¹² The Act on Proclamation of State Independence 1992. At the same time, the Crimean deputies called upon the Ukrainian authorities to conclude a bilateral treaty between Kyiv and Simferopol.

¹¹³ UCIPR 1996, pp. 8-14, 17 (an appeal of the Crimean Soviet to the Ukrainian president and head of the parliament quoted). See also: Solchanyk 1994, p. 55. For the text of the law, see: *Zakon pro status RK* 1992.

¹¹⁴ UCIPR 1996, p. 16.

¹¹⁵ Resolution of Verkhovna Rada of Ukraine, 13 May 1992.

¹¹⁶ Solchanyk 1994, p. 56.

¹¹⁷ The pressure on the deputies, both by the Ukrainian authorities and the leaders of the peninsula's local councils and enterprises, constitutes a further factor for the Supreme Soviet's compliance. See: *Usov* 1994, p. 86.

¹¹⁸ Solchanyk 1994, p. 56.

¹¹⁹ This retreat ironically took place on the very same day that the Russian parliament declared the decisions of 1954 invalid.

¹²⁰ For the text, see: *Zakon pro rozmezhuвання* 1992; for an English translation of the most significant articles, see: *Law on the Demarcation*, 1992.

and laws were brought into line with those of Ukraine, and the independence referendum called off. Meanwhile, hopes of peninsular parliamentarians for Russia's support of Crimean independence were decreasing. Presidents Kravchuk and Yeltsin had concluded, at the Dagomys summit on 23 June, an agreement to divide the Black Sea Fleet. On 9 July, the Crimean parliament decided to place a moratorium on holding a referendum. In order to meet Kyiv's other demands, amendments to the Crimean constitution were passed on 25 September, defining Crimea as a state within Ukraine that builds its relations with the latter on the basis of mutually co-ordinated legislative acts and agreements.¹²¹ These amendments, however, did not make the Crimean constitution conform to the constitution and legislation of Ukraine. The June 1992 law on the demarcation of powers never came into effect. In June 1994, the Verkhovna Rada explicitly declared the law invalid.¹²²

These mutual concessions led to a period of one-and-a-half years of relative stabilisation in relations between the peninsular and central authorities, during which each side tried to strengthen its position. At the same time, pro-independence orientation was steadily increasing in Crimean society. Both processes developed against the background of a deepening economic crisis, which was more severe than in Russia, and the unwillingness of the latter to unequivocally recognise Crimea as an integral part of Ukraine. This reluctance was strengthened by the painstaking process of the division of the Black Sea Fleet, in which both Moscow and Kyiv wanted to secure a military and political advantage. Between June 1992 and September 1993, the problem was discussed at as many as five meetings between Kravchuk and Yeltsin. Although an agreement was concluded at each summit, it was virtually sabotaged by government officials in charge of its implementation. The agreement was even interpreted differently by the presidents themselves, who were under strong pressure from nationalist forces, who called for a more resolute defence of 'national interests'. Meanwhile, confrontation increased between naval servicemen, who had chosen to remain loyal to their respective states, as they were trying to de facto 'nationalise' their vessels. A number of rallies were held by pro-Russian organisations in Sevastopol, demanding that the fleet be transferred to Russia and the city returned to its jurisdiction. The latter demand was strongly instigated by some acts of Russian legislature, most notably by the above-mentioned resolution of 9 July 1993.¹²³

Meanwhile, Kyiv tried to strengthen its control over Crimea. In order to achieve this goal, nationalist parties counted primarily on administrative measures. They called for pressure to ensure that the Crimean legislation would fully conform to the national one, for the banning of 'anti-Ukrainian' separatist organisations, and even for the abolition of the autonomy. In contrast, 'centrist' forces, mainly of nomenklatura origin, preferred to use incentives rather than bans. They tried to secure the acquiescence of the Crimean leadership by means of granting them more power and allocating financial subsidies to the peninsula. In particular, Kravchuk issued a decree in June 1993 declaring the peninsula a free economic zone.¹²⁴

In April, the Presidium of the autonomy's Supreme Soviet called for the creation of the post of president of the Republic of Crimea. The deputies supported such an expansion of the peninsula's powers, and a Crimean law on the presidency was passed in October, with the election scheduled for 16 January 1994. There was no doubt that Bahrov meant to assume the new post himself, thus increasing his own power. Kyiv tolerated the initiative with the hope of retaining control over the autonomy via its more complying, or at least co-operative, leader. On the peninsula, Bahrov was supported by local centrist parties, such as the Party of Economic Revival of Crimea (*Partia Ekonomicheskogo Vozrozhdenia Kryma*, PEVK), founded in autumn 1992, as well as by rather marginal Ukrainophone/Ukrainophile organisations. The Crimean Tatars initially opposed the very idea of the autonomy's presidency, and the Mejlis called for a boycott of the election. However, they then supported Bahrov as the lesser of two evils.¹²⁵

¹²¹ Solchanyk 1994, p. 56f; Chronology 1995, pp. xxviiiif.

¹²² Resolution of Verkhovna Rada of Ukraine, 1 June 1994.

¹²³ Chronology 1995, pp. xxx-xxxviii; Solchanyk 1994, p. 57f.

¹²⁴ Chronology 1995, p. xxxvi.

¹²⁵ Wilson 1998, pp. 301f.

His main rival appeared to be the overtly separatist Yuri Meshkov, who could count on the support of the Russia bloc. Its principal constituent groups were the Republican (former RDK) and the People's parties, both standing for an independent Crimea or reunion with the RF. Other influential forces in the separatist camp were the more radical Russian Party of Crimea and the local Communist party, which nominated their respective leaders, Serhii (Sergei) Shuvainikov and Leonid Hrach (Grach), as candidates for presidency. The electoral campaign was unprecedented in Ukraine, as the parties resorted to increasingly severe methods of agitation, physically beating the candidates and members of their teams, and even assassinating several known politicians, including the leader of the NDKT, Yuri Osmanov. The two winners of the first round appeared to be Meshkov and Bahrov, but support for the former was more than twice as high as that of the latter. Bahrov's programme, attempting to balance the desirability of increased autonomy and the economic necessity of preserving links with Ukraine, proved to be much less attractive to voters than his rival's. Meshkov blamed Kyiv for all of the peninsula's economic and social woes, and promised to swiftly rectify them by restoring ties with Russia and establishing Crimea as an independent state, which would enter the CIS on its own. In the second round on 30 January, support for Shuvainikov and Hrach shifted to Meshkov. His victory over Bahrov was highly impressive, 73 vs. 23 per cent.¹²⁶

Kyiv's reaction to the failure of its plan was rather restrained. On February 4, the day Meshkov was sworn in as Crimea's president, his meeting with Kravchuk, which was focused on economic matters, resulted in what was presented as a success in Simferopol. At the same time, Meshkov's efforts to raise support in Russia did not create the expected result. Russian top executive officials failed to openly greet separatist aspirations of the new Crimean leadership. The only visible success of Meshkov's immediate visit to Moscow was the consent of the former Russian minister of economics, Yevgenii Saburov, to Meshkov's offer to head the new autonomy's government. On 11 March, the Supreme Soviet appointed Saburov deputy prime minister.¹²⁷ The post of prime minister was not envisaged in the new Crimean power system, as the president was both head of state and head of the government. On Saburov's request, Kravchuk granted him Ukrainian citizenship, even though the relations between Kyiv and Simferopol were by then far from co-operative. At first, the Saburov government's activity proved to be rather successful. Kyiv allowed it to conduct a relatively independent taxation policy, which resulted in substantial investments in the peninsular economy. However, market reforms were severely limited by political considerations and economic interests of Crimean key actors. In just half a year, the government fell victim to fierce confrontation between the autonomy's executive and legislature. The confrontation partly stemmed from competition for preferential privatisation rights to state assets on the peninsula, and caused a deterioration of the economic situation. This significantly contributed to the evaporation of mass support for separatist politicians (see section 2.3).¹²⁸

The first resolute step to what would soon result in an overt conflict between the centre and the autonomy was the resolution on the status of Crimea, passed by the Ukrainian parliament on 24 February by an overwhelming majority. In response to Meshkov's acts and statements that were aimed at far-reaching independence of the peninsula, the resolution ruled that the Republic of Crimea, as an autonomy within Ukraine, had neither the right to establish its own citizenship, military formations, nor to conduct independent foreign and financial policies. Simferopol was given one month to bring the Crimean constitution and legislation into line with Ukrainian law. Although restrictive in its wording, the resolution recognised a rather broad scope of the autonomy's powers. However, it unequivocally denied Crimea the status and rights of a sovereign state.¹²⁹

It is not surprising that Meshkov denounced Kyiv's move, calling for the correlation of Ukrainian and Crimean sovereignties, as exemplified in an agreement between the Russian Federation and one of its constituent republics, Tatarstan. On 10 March, he initiated the realisation of this desired model with a decree on holding a referendum on the restoration of the provisions of the Crimean constitution of 6 May 1992. The aim was to build relations between Simferopol and Kyiv on the basis of a bilateral treaty and agreements, as well as on the Crimeans' right to dual citizenship. Ukrainian nationalist

¹²⁶ Wilson 1995, pp. 112f; Chronology 1995, pp. xxxixff.

¹²⁷ Chronology 1995, pp. xliif.

¹²⁸ Zaitsev 1994.

¹²⁹ Postanova Verkhovnoi Rady Ukrainy, 24 February 1994.

parties and pro-Ukrainian organisations on the peninsula called on President Kravchuk to annul the decree, as well as abolish the autonomy's presidency. They even called for the withdrawal of the Black Sea Fleet from Ukrainian territory. The moderate Kravchuk limited his action to the first point, declaring that a poll that had been proposed by Meshkov ran counter to Ukraine's legislation because the two above-mentioned issues could only be subject to a Ukrainian-wide (consultative) referendum, not a local one.¹³⁰ The third issue in the referendum was supposed to grant the Crimean president's decrees the force of law. Kravchuk did not annul the respective item, since this issue fell within the autonomy's jurisdiction. However, this item was aimed at the redivision of powers between the Crimean legislature and the executive, in favour of the latter. It was therefore hardly acceptable for the former. The central election commission of the autonomy declared that Meshkov's decree ran counter to the Crimean constitution. This move marked the beginning of a confrontation between the two branches of power on the peninsula, which would eventually help Kyiv in defeating both. At that time, however, Meshkov was proceeding with the referendum, which was qualified as a non-binding opinion poll. On 27 March 1994, an overwhelming majority of those participating voted consentingly to all proposed questions, which bore significant importance to Crimean separatism in general, and Meshkov's consolidation of power in particular.¹³¹ Simultaneously, Meshkov manifested his separatist inclinations with a symbolically charged order to adjust Crimean clocks to coincide with Moscow's rather than Kyiv's.

On the same day, the separatist forces won a more important victory in the election to the autonomy's parliament, which, on the other hand, paved the way to a conflict amongst the separatists themselves. The Russia bloc matched its performance in the presidential elections, having gained a majority of seats. This could have even been a qualified majority, had the previous Supreme Soviet not established special quotas for the Crimean Tatars and four other formerly deported minority groups (see section 3.1). As centrist parties fared poorly and pro-Ukrainian ones failed to acquire any seats, the Kurultai faction of fourteen deputies appeared to be the only serious opposition to the separatist majority. In the simultaneous election to the national parliament, however, the results were quite different. The Russia bloc called for a boycott, and Meshkov himself appeared on television on the eve of the election to encourage Crimeans to ignore the election, thus evoking a sharp reaction in Kyiv. The boycott resulted in a rather low turnout, leaving more than half of the Crimean seats in the Verkhovna Rada vacant. It also increased the chances of the Communist party and centrist forces, whereas Tatars were left with no deputies.¹³²

Before the new Crimean parliament took lead in adopting separatist acts, Meshkov increased the grade of confrontation between Simferopol and Kyiv by issuing a series of decrees on matters which did not fall into the autonomy's jurisdiction. On 25 March, he required Crimean residents to perform military service only on the peninsula. In the first half of April, he dismissed heads of the peninsular state television and radio company, the regional branch of the Ukrainian security service and the autonomy's ministry of the interior. Kravchuk annulled all these decrees, but Meshkov insisted on his appointments to the above posts. Parallel offices were in fact established, with real power vested in officials who were subordinate to Kyiv. In turn, on 31 March, the President of Ukraine appointed his first representative in the autonomy, Valerii Horbatov (Gorbatov), member of both national and Crimean parliaments. The representation was introduced legislatively as early as January 1993, and the parliamentary resolution of 24 February urged the president to implement the law. This move was criticised even by moderate members of the Crimean Soviet's Presidium, who appealed to Kravchuk to suspend his decree. Meshkov qualified the move as a political provocation, and later appealed to all heads of peninsular enterprises and institutions not to contact Kyiv's appointee. Another point of confrontation between him and the centre appeared to be the refusal of the latter to allow the Crimean leader to participate in the Ukrainian-Russian negotiations on the fleet, an issue that Simferopol kept insisting on being decided only with its consent.¹³³

¹³⁰ UCIPR 1996, pp. 73ff; Chronology 1995, p. xliii.

¹³¹ Chronology 1995, pp. xliiif.

¹³² Wilson 1995, pp. 121ff; Chronology 1995, p. xliv.

¹³³ Khronika 1994a, pp. 118-127; UCIPR 1996, pp. 75-78.

On 10 May, the new parliament of the autonomy convened. The Russia bloc got its members elected as head (Serhii (Sergei) Tsekov, leader of the Republican Party of Crimea) and as deputy heads.¹³⁴ The separatist majority was eager to begin with the implementation of its agenda. It was then that the HCNM for the first time entered the Crimean political scene.

2.2 *The High Commissioner's First Recommendations (15 May 1994)*

It is my view that the present difficulties between the central government and the Crimean administration could be resolved if a settlement could be reached, which would, on the one hand, reaffirm the need to maintain the territorial integrity of Ukraine but which, on the other hand, would contain a complete programme of steps to solve various issues concerning the implementation of the formula of substantial autonomy for Crimea, especially in the economic field. Urgent action is required, also in order to ensure that the differences between the central government and the Crimean administration will not lead to ethnic discord. Considering the extremely complicated and delicate issues involved, I suggest that your government explores the possibility of the CSCE providing assistance, for instance in the form of a team of constitutional and economic experts who could, after investigation of the issues in dispute, provide some suggestions for solutions. The experts could also give their advice on the question to what degree the demands for greater economic latitude expressed by some oblasts in eastern Ukraine could be met.¹³⁵

Van der Stoel's first visit to Crimea, which was preceded by his second appearance in Kyiv, took place in early May 1994, a few days before the autonomy's newly elected parliament began its work. His primary purpose was to establish contacts with relevant officials, politicians and public leaders, as well as to orient himself with regard to their views and relationships.¹³⁶ Accordingly, his first formal recommendations on the problem of the Crimean autonomy were concerned with basic principles for resolving the controversy, rather than specific steps which should be made in order to achieve that goal.

First of all, it should be noted that the HCNM defined the problem as that of a controversy between the Kyiv and Simferopol authorities, rather than between the central government and the Russian minority. In doing so, he separated the Crimean problem from that of preservation and development of the Russian language and culture in Ukraine, which was raised in the same letter of 15 May (see section 4.2). Different challenges required different solutions based on, or justified in terms of, different legal grounds. Since the growing demands of the Crimean administration posed a danger of the peninsula's secession, the High Commissioner referred to the CSCE principles of respect for sovereignty and the existing borders of the member states, as well as to recent reaffirming of these principles by Ukraine, Russia and the USA in the Trilateral Agreement of January 1994. On the other hand, the HCNM emphasised the role of economic latitude of Crimea (and other regions) in preventing ethnic discord. The HCNM's view implies that ethno-cultural claims of the minorities are, to a considerable degree, caused by the desire of the respective regions' authorities to wrest more power from the central government, primarily in the economic field. Having investigated the situation, CSCE experts came to the same conclusion. In their report to the High Commissioner, they stressed that the main underlying issues in the dispute were of economic character, in particular concerning property, natural resources and taxation.¹³⁷

Unsurprisingly, van der Stoel's rather abstract appeal for reaching a settlement on the Crimean problem, based on the principles of Ukraine's territorial integrity and "substantial autonomy" for the peninsula, rather than statehood which its leadership insisted on, was quite acceptable to the authorities in Kyiv. In his reply dated 7 June, Minister for Foreign Affairs Anatoly Zlenko informed the HCHM that his government was ready to hear a group of CSCE experts, who could elaborate on specific recommendations. He also expressed Kyiv's hope that the future team would work with "full objectivity and impartiality". Zlenko made it clear that the experts were, in particular, expected to provide recommendations on the degree of economic latitude which should be given to Crimea in order to balance

¹³⁴ Khronika 1994b, p. 66.

¹³⁵ Letter by van der Stoel to Zlenko, 15 May 1994, pp. 786-787.

¹³⁶ Packer 1998, p. 306.

¹³⁷ Ibid., p. 307.

necessary opportunities that would promote its development with sufficient central governmental control. The view of the Ukrainian leadership was that their bills and decrees, aimed at expanding the powers of the Crimean government, were sufficient to implement economic reform in the region. Moreover, Kyiv was ready to further expand Simferopol's powers in the future. On the other hand, it was felt in the capital that

[o]ur balanced and reasonable position is being used by leadership of the Crimea for further intensification of its separatist activity, gradual separation of the Crimea from Ukraine under the pretext of ensuring its 'economic sovereignty'.¹³⁸

Given "ongoing complex and dangerous processes in and around the Crimea", Zlenko also expressed his government's interest in the long-term presence of the CSCE in Ukraine, in the form of a mission, agency, or bureau. As noted above, both a team of experts and a mission were soon established, pursuant to decisions of the CSO, and began their activities in Ukraine in August and November respectively. In accordance with the HCNM's and experts' understanding of the underlying problems that lay beneath the controversy, the Mission's mandate, which was approved on 25 August, specifically mentioned its participation in the elaboration of economic programmes, in particular for the Crimean peninsula. Thus it became the only CSCE mission with an explicit economic dimension of activity. The main tasks of the Mission were to establish contacts with relevant actors, collect information and compile reports on all aspects of the situation in and around the autonomy. Last but not least, the Mission was intended to facilitate a dialogue between the central government and the Crimean authorities.¹³⁹

Kyiv hoped to use CSCE involvement as a means to resolve the conflict with the rebellious region, whilst securing its own interests, in particular, keeping Russia out. However, the Ukrainian leadership did not want the Mission to become an active mediator between the parties, and tried to limit the scope of its competencies.¹⁴⁰ The limited mandate of the Mission increased the mediating tasks of the High Commissioner but, at the same time, made it more difficult to fulfil these tasks.¹⁴¹ Not only had van der Stoel yet to persuade the parties of his suitability as a mediator, but he also had to make them and/or wait for them to realise that they needed a mediator. So far, relevant Ukrainian actors hardly identified the HCNM among numerous international visitors, and there was no reference to his recommendations in newspapers or parliamentary speeches.¹⁴² Meanwhile, reaching the settlement that van der Stoel had suggested in his letter was, in the summer of 1994, less probable than ever. Indeed, the very readiness of the Ukrainian leadership to accept long-term international intervention showed that they perceived the relations between Kyiv and Simferopol to have reached a deadlock.

2.3 Rise and Fall of Crimean Separatism in May 1994 - April 1995

Immediately after van der Stoel had provided his first recommendations, the situation around Crimea aggravated sharply, as the autonomy's parliament made a resolute move in the opposite direction of reaching an agreement with Kyiv.¹⁴³ On 20 May, the Supreme Soviet adopted a law that restored the validity of the constitution of 6 May 1992. An overwhelming majority supported the decision, with the Kurultai faction boycotting the vote. This occurred despite not only Kravchuk's warning against revising the basic provisions on the relations between Ukraine and Crimea and his proposition first to

¹³⁸ Letter by Zlenko to van der Stoel, 7 June 1994.

¹³⁹ For the text, see: Permanent Committee Journal, 31/1994, Annex.

¹⁴⁰ Büscher 1999, p. 3. The first head of the Mission, Andreas Kohlschütter, argues that the authorities in both Kyiv and Simferopol impeded, rather than facilitated, the commencement of the Mission's work. Later, they treated its activities with distrust and scepticism. Kohlschütter 1996, pp. 130f.

¹⁴¹ See also: Hopmann 2000.

¹⁴² During interviews conducted by Klemens Büscher and this author in Kyiv and Simferopol in autumn 1999, van der Stoel's interlocutors associated his involvement in Ukraine mainly with the period beginning early 1995.

¹⁴³ The Crimean authorities may have been unaware of van der Stoel's letter at the time of this move, five days after the letter was sent, and perhaps even later. There was no request in that letter to forward it to Simferopol, and its appearance in subsequent letters by the HCNM may prove his awareness of the central government's failure to inform the autonomy's administration about his recommendations. However, there is no reason to believe that the separatist majority of the Crimean parliament would have refrained from the attempt to start the implementation of its agenda, had it known of the High Commissioner's appeal. This appeal did not, moreover, contain an explicit warning against such an attempt, contrary to his letter of May 1995 (see section 2.5).

send a delegation to Kyiv to discuss the problem with the Ukrainian authorities, but also in spite of Meshkov's appeal to delay the move in order to ensure "more balanced and cautious" behaviour of parliamentarians.¹⁴⁴ In Kyiv, the move was viewed as a violation of the Ukrainian legislation, and as a step towards the peninsula's secession. As Zlenko stated in his aforementioned letter to van der Stoel, this decision was "aimed at undermining the constitutional order of Ukraine and its territorial integrity", and could not be qualified other than as "an obvious attempt by separatist forces to put the internal political stability in Ukraine at risk and provoke tension in the relations between Ukraine and Russia".¹⁴⁵

On the very same day that the Crimean law was adopted, the newly elected Verkhovna Rada suspended it until the autonomy's constitution would be brought into line with Ukraine's and the law on demarcation of powers. For this, Simferopol was given ten days.¹⁴⁶ Instead of complying with the ultimatum, as in May 1992, the Crimean parliamentarians suspended its validity on the peninsula. They may have been confident that Kyiv would not resort to resolute action to ensure that its demands were met, in view not only of a predictable reaction in Russia, but also in view of the internal political situation in Ukraine on the eve of the presidential election, scheduled for late June.¹⁴⁷ It is true that both the central and Crimean government demonstrated their readiness to take resolute measures. The former moved additional troops to Sevastopol, and the latter strengthened the guarding of some buildings in Simferopol. Within a few days, however, both parliaments agreed to conduct talks. Unfortunately, these did not result in a compromise agreement on the delineation of powers. The peninsular delegation was instructed to act in accordance with the restored constitution, and in particular, not to recognise Crimea's being a part of Ukraine. This precondition was clearly unacceptable for the representatives of the Verkhovna Rada.¹⁴⁸

Meanwhile, the war of laws, resolutions and decrees between Kyiv and Simferopol continued. After the deadline for amending the autonomy's constitution had not been met, the Verkhovna Rada voted on 1 June to prepare legislative norms that would allow it to annul, rather than just suspend, Crimean laws that were considered to be in violation of the Ukrainian constitution and legislation. In other words, the parliament was to assume the competency of a constitutional court. Moreover, the 1992 law on the demarcation of powers, which the Verkhovna Rada had just two weeks earlier insisted on being respected by Simferopol, was declared invalid. The ground was that the Crimean parliamentarians had not fulfilled the requirement of the accompanying resolution, that is, that they had failed to bring the autonomy's constitution and laws into line with Ukraine's.¹⁴⁹ This move considerably narrowed the scope of the autonomy's powers that had been recognised by the centre, since not all of the powers envisaged by the demarcation law were reflected in the national constitution. On 30 June, the Crimean parliament adopted a resolution denying the validity of any Ukrainian legislative and normative acts that were seen as running counter to the restored constitution. This included, in particular, all resolutions annulling the autonomy's laws and decrees. Furthermore, a bill on Crimean citizenship was passed in the first reading on 21 July, envisaging, in effect, the possibility of granting citizenship to non-citizens of Ukraine, and allowing dual citizenship in accordance with bilateral international treaties. At the same time, Kyiv and Simferopol continued in their efforts to subordinate the Crimean militia. By the end of July, the former had won. They also tried to control the privatisation processes on the peninsula. In June and July, they exchanged resolutions declaring each other's acts on the matter invalid.¹⁵⁰

This controversy paved the way to a sharp increase in criminal activity in the peninsular economy and a bloody war between criminal clans, who closely 'co-operated' with the Crimean authorities. This, in

¹⁴⁴ Krymskii krisis 1994, pp. 124 (quote); UCIPR 1996, pp. 79ff.

¹⁴⁵ Letter by Zlenko to van der Stoel, 7 June 1994, p. 788.

¹⁴⁶ See: Resolution of Verkhovna Rada of Ukraine, 20 May 1994.

¹⁴⁷ One reason could be Yeltsin's public statement that he had warned Kravchuk against any forceful actions with regard to Crimea and had been given his assurance to this. The Crimean politicians also knew that many Ukrainian MPs and regional leaders were resolute not to let Kravchuk and his entourage use the situation on the peninsula as a pretext to postpone the election. Accordingly, they denounced the latter's behaviour as going in just that direction. Krymskii krisis 1994, pp. 124ff.

¹⁴⁸ Ibid., pp. 125ff, 132.

¹⁴⁹ See: Resolution of Verkhovna Rada of Ukraine, 1 June 1994.

¹⁵⁰ Krymskii krisis 1994, pp. 128ff.

turn, resulted in a drastic decrease in mass support for both the executive and legislative bodies of the autonomy. Furthermore, the taking over of Ukraine's presidential power in mid-July by the supposedly pro-Russian Kuchma, who was supported by an overwhelming majority of the peninsula's voters against the 'nationalist' Kravchuk, weakened the confrontation between the centre and the autonomy. And it was this factor that had determined the unity of Crimean authorities to a considerable degree. Conflicting ambitions and interests caused increasing tensions amongst the separatist forces, most remarkably demonstrated in the confrontation between the parliament and president.¹⁵¹

The tensions between the two branches began in the first days of their coexistence. Not only did the Supreme Soviet block any attempt by Meshkov to expand his powers, but it also sought to limit them radically. The decisive blow was delivered on 8 September, when the parliament amended the law on the presidency, presenting the amendment as bringing the law into line with the constitution of Crimea. The president was stripped of his role as head of state, being thus left with the post of head of government. He was also denied the power to appoint key local officials. Meshkov's attempt to respond by suspending the parliament failed, and the latter continued its offensive.¹⁵² By amending the constitution, the Supreme Soviet, on 5 October, established the post of prime minister and took over the authority to appoint the head and members of government, thus depriving Meshkov of his remaining power. After the dismissal of Saburov and his Moscow team, Anatolii Franchuk, an influential official in the earlier Crimean governments and an in-law of President Kuchma, was elected prime minister. The price for the victory over Meshkov appeared to be participation in the new *de facto* coalition government alongside representatives of Tsekov's Russian faction, nominees of the Reforms who were 'centrists' dominated by the PEVK and the Kurultai.¹⁵³ Together with the split of the Russia bloc, this marked an end to the separatists' monopoly on the peninsula.

Kyiv did not fail to take advantage of the fact that the separatist leaders had discredited themselves and were dependent on the central authorities to arbitrate in inner-Crimean controversy.¹⁵⁴ Instead of supporting one of the rivals, Kyiv tried to bring the situation in Crimea under control.¹⁵⁵ The Ukrainian political elite, though deeply divided on other major current problems, was consolidated on this matter. It was not only the nationalists who considered the Crimean conflict a "chance" to "make order" on the peninsula by abolishing its autonomy and power bodies. On 15 September, with the beginning of the new session, the Verkhovna Rada voted to annul a resolution on the status of Sevastopol as a Russian city, which had been adopted by the city council on 23 August.¹⁵⁶ On 21 September, the Ukrainian parliament went a step further and adopted amendments to the constitution, assuming powers to annul Crimean laws if they were not brought into line with national legislation (after having been suspended by the Verkhovna Rada). Moreover, it assumed the right to dissolve the Supreme Soviet of Crimea. The autonomy was henceforth termed by Kyiv the Autonomous Republic of Crimea (ARC), a name that Simferopol rejected for a long time thereafter.¹⁵⁷ On the following day, a resolution was passed that gave the Crimean parliamentarians until 1 November 1994 to amend the constitution and laws running counter to Ukrainian legislation.¹⁵⁸

The separatist factions refused to comply with the ultimatum, and the Supreme Soviet appealed to the central authorities, arguing that Kyiv's demand could not be met because of the "varying attitudes" [*neodnoznachnoie otnoshenie*] of the Crimean parliamentarians and the population.¹⁵⁹ On 17 November, the Verkhovna Rada responded by annulling approximately 40 of the autonomy's legislative and normative acts, including the 1991 declaration of sovereignty and the 1992 declaration of

¹⁵¹ Zaitsev 1994, pp. 163f; Tyshchenko/Pikhovshek 1999, pp. 87f.

¹⁵² Krymskii krisis 1994, pp. 135-142; Zaitsev 1994, p. 164.

¹⁵³ Beletskii et al. 1995a, p. 14; Chronology 1995, pp. ilff.

¹⁵⁴ Meshkov went as far as to disclaim extremist and separatist activities of the Crimean parliament, and to present its moves against himself as a response to his attempts to block these activities. Krymskii krisis 1994, p. 140.

¹⁵⁵ It is true that the president and the parliament of Ukraine favoured the respective branches of the Crimean power, as they projected the peninsular struggle onto the national level. However, a clear priority for all central authorities was to secure Kyiv's control over the autonomy. Zaitsev 1994, p. 165f.

¹⁵⁶ Druha sesiia Verkhovnoi Rady Ukrainy (hereafter VRU), Bulletin No. 1, [Kyiv] 1994, pp. 91-103 (quote on p. 97).

¹⁵⁷ See: Zakon pro zminy do Konstytutsii 1994. Contrary to earlier use of the word 'autonomous' as a qualifying definition (see section 2.1), Kyiv now treated it as an integral part of the autonomy's name.

¹⁵⁸ See: Postanova Verkhovnoi Rady Ukrainy, 22 September 1994.

¹⁵⁹ Khronika 1995a, p. 124.

independence. It also addressed President Kuchma to do the same with the illegal decrees of the Crimean executive, to which he reacted in January and February 1995. In November 1994, the Verkhovna Rada also instructed the National Bank to suspend the financing of those power bodies on the peninsula, which violated Ukrainian legislation.¹⁶⁰ Although the national parliament already had sufficient powers, it preferred neither to dissolve the Crimean Soviet, nor to even nullify the separatist constitution of 6 May 1992. Nevertheless, Kyiv's move provoked a rather sharp reaction from Russian parliamentarians, who warned their Ukrainian colleagues that concluding and ratifying a fleet agreement and basic bilateral treaty would be impossible "without a compromise in the settlement of the Crimean-Ukrainian conflict".¹⁶¹

As for the Crimean leaders, they did not appear to be particularly concerned about the Ukrainian parliament's resolution. First, they still held it unlikely that Kyiv would take any "radical steps", because it seemed obvious that such measures would result in the deterioration of Ukraine's relations with Russia.¹⁶² Second, they were more preoccupied with the struggle inside the Supreme Soviet, which intensified significantly in early December when the opposition, led by the Kurultai faction, attempted to dismiss the Presidium and, after its failure, decided to boycott the sittings. Therefore, the Crimean parliament did not consider in its session the resolution of the Verkhovna Rada, and made virtually no effort to bring the autonomy's legislation into line with Ukraine's.¹⁶³ On the contrary, it passed some new acts that the centre deemed to run counter to national legislation. Moreover, it confirmed the validity of some acts that had already been cancelled by the Ukrainian parliament. No less disturbing for Kyiv was the activation of contacts between Simferopol and Moscow, culminating in the Crimean parliament's address, dated 19 January 1995, to President Yeltsin. The parliament requested a consular group to be sent to the peninsula, which would register Russian citizenship for all those wishing to obtain it.¹⁶⁴ After the group arrived in Simferopol in mid-March, it began issuing Russian passports to Crimean residents retaining Ukrainian citizenship. This was in accordance with the above-mentioned amendments to the Russian citizenship law, which allowed double citizenship to former Soviet persons. Kyiv reacted by vehemently demanding the group to be withdrawn, and Moscow reluctantly complied with the demand.¹⁶⁵ Finally, the Ukrainian influence on the peninsula, which had been strengthened with the establishment of the Franchuk government that was loyal to Kyiv, and came to exercise virtually full control over the Crimean economy, became endangered again. This was due to the rapprochement between Tsekov and Meshkov, and the ensuing reconsolidation of the separatist majority in the Supreme Soviet. The resultant attempt of Meshkov to restore control over the executive, and the threat to dismiss Franchuk, which would mean Kyiv would lose its most effective instrument for keeping the situation in Crimea under control, urged the central authorities to more resolute action.¹⁶⁶

On 17 March 1995, the Verkhovna Rada nullified the laws on Crimean presidency, thus abolishing the office itself. It also annulled the constitution of 6 May 1992 and the act on its restoration, as well as the autonomy's laws on the constitutional court and the election of local councils. The remaining legal acts that were passed pursuant to the Crimean constitution were declared valid only if they did not contradict Ukrainian legislation. Although all three main Crimean authorities were guilty of repeatedly violating laws and resolutions passed by the Verkhovna Rada, the latter confirmed the legitimacy of the autonomy's parliament and government.¹⁶⁷ It did not want to provoke an outburst of separatist sentiments and further the consolidation of the deputies with the Meshkov administration. However, the Ukrainian parliament considerably reduced the scope of the two bodies' power by adopting, on the same day, the law "On the Autonomous Republic of Crimea" and by simultaneously invalidating the 1992 laws on the status of the ARC and on the demarcation of powers between its bodies and the central ones. According to the new law, the property right for land and natural resources on the territory of the autonomy was lost. This clearly contradicted the spirit of the HCNM's recommendation to

¹⁶⁰ See: Postanova Verkhovnoi Rady Ukrainy, 17 November 1994 (the list of annulled acts published as an annex).

¹⁶¹ Chronology 1995, p. lii.

¹⁶² Tsekov's statement of 25 November, quoted in: Beletskii et al. 1995a, p. 15.

¹⁶³ Ibid.

¹⁶⁴ Tretia sesia VRU, Bulletin No. 23, pt. 1, [Kyiv] 1995, pp. 8ff, 18ff; UCIPR 1996, pp. 129f.

¹⁶⁵ Khronika 1995b, pp. 143ff. See also Kozyrev's remark on the matter in: Sud'by 1995, p. 113.

¹⁶⁶ Beletskii et al. 1995b, p. 13.

¹⁶⁷ See: The Law of Ukraine on cancelling 1995; Parliament's resolution, 17 March 1995.

implement "the formula of substantial autonomy for Crimea, especially in the economic field"¹⁶⁸ though not its ambiguous letter (see section 2.2). Joint Crimean-Ukrainian citizenship, much less separate Crimean citizenship, was not mentioned either, not to mention separate Crimean citizenship. More importantly, the very idea of a steady, unilateral and unchangeable division of powers between the centre and the autonomy was replaced by the notion that the centre determined the extent of the powers of the autonomy. No guarantee was made that it would retain these powers. This change was reflected in a different procedure bringing into force the autonomy's new constitution. After being adopted by the autonomy's parliament, it had to be endorsed by the national legislative.¹⁶⁹

While passing the above-mentioned acts, the Verkhovna Rada was rather consolidated. Not only did statist and nationalist factions, supporting President Kuchma, vote for measures aimed at strengthening the state and retaining its territorial integrity, but many leftist deputies who opposed the executive did as well. After a few days, however, the proposal to suspend the autonomy's law on the government, as running counter to the Ukrainian Constitution and the newly adopted law on the ARC, failed to win a majority. The calls of the proponents of this move to defend the pro-Ukrainian government from the separatists' probable revenge were to little avail. Even after the Crimean parliament had indeed passed, on 22 March, a vote of no confidence in Prime Minister Franchuk, the Verkhovna Rada was unable to cancel, or even suspend, the resolution on his dismissal, nor the law that made this possible. The main reason was perhaps the parliamentarians' reluctance to allow further strengthening of the executive, and to set a precedent to its non-accountability to the legislature. This would have been dangerous in view of the current reshaping of the Ukrainian political system, which was to be reflected in the so-called constitutional treaty between the president and the parliament in June 1995.¹⁷⁰ Hence, it was left to Kuchma to retain the influence of Kyiv and that of his own relative in Crimea. He achieved this by issuing a decree on 31 March on the direct subordination, pending the adoption of the new autonomy's constitution, of its government to that of Ukraine. Also, the Crimean premier would be appointed by the Ukrainian president, "taking into account" the proposal of the chairman of the autonomy's parliament.¹⁷¹ Accordingly, Franchuk was confirmed as head of the Crimean government. In spite of Simferopol's appeals, the Verkhovna Rada did not veto the decree.

The separatist majority of the autonomy's parliament hoped that Moscow would intercede for its 'compatriots'. On 18 March, the following day after the first resolute actions had been taken by Kyiv, the Crimean Soviet addressed the Russian president and parliament, pleading Russia not to conclude a friendship treaty with Ukraine without taking the interests of the peninsula into consideration. A few days later, the Duma issued another statement on the Crimean problem. It warned of the negative consequences that Kyiv's tough measures with regard to Simferopol would have on the complex problems that were being dealt with in Russian-Ukrainian relations. On 7 April, the Duma went further by adopting a law placing a moratorium on the "unilateral reduction" of the Black Sea Fleet. This was later rejected by the upper house, the Council of Federation. Two days before, an ultra-nationalist Russian MP manifested his protest to Kyiv's policies towards Crimea by tearing up a Ukrainian flag. The demonstration was immediately rebuffed by the tearing up of a Russian flag in the Verkhovna Rada.¹⁷²

The Russian executive at first reacted rather calmly, stating that the situation in Crimea was an internal matter of Ukraine, and continued with bilateral negotiations and agreements with Kyiv. However, Kuchma's decree and Kyiv's campaign against the Russian consular group on the peninsula made the Russian government take a tougher stance, with the foreign ministry expressing its concern. After Tsekov's speech in the Duma on 14 April, in which he argued that the disrespect Kyiv showed to Crimea was disrespectful to Russia, President Yeltsin also made a statement that the friendship treaty with Ukraine could not be signed until Russia was convinced that the rights of the Crimeans were being respected.¹⁷³ Several days later, Kozyrev made the above-mentioned sensational statement that the use of military force to protect Russian citizens and 'compatriots' abroad could not be excluded.¹⁷⁴

¹⁶⁸ Letter by van der Stoep to Zlenko, 15 May 1994, p. 786.

¹⁶⁹ See: Law on the ARC 1995; Decree of Verkhovna Rada of Ukraine, 17 March 1995.

¹⁷⁰ UCIPR 1996, pp. 118ff.

¹⁷¹ See: Decree of President of Ukraine, 31 March 1995.

¹⁷² Khronika 1995b, pp. 143f, 147 (quote); cf. Beletskii et al. 1995b, p. 9.

¹⁷³ Beletskii et al. 1995b, pp. 9f; Chronology 1995, p. liii.

¹⁷⁴ See: Sud'by 1995, pp. 116-117.

Kyiv's readiness to ignore these warnings was, as observers have widely recognised,¹⁷⁵ significantly contributed to by its awareness that Moscow was preoccupied with, and discredited by, its war in Chechnya, which made any serious move to defend 'the rights of the Crimeans' improbable.¹⁷⁶

However, measures taken by the Ukrainian authorities failed to secure the compliance of the Crimean parliament. An attempt by the Kurultai and other opposition factions to remove hard-line separatists using Kyiv's powers in order to strengthen their own position in the autonomy's power bodies was also unsuccessful.¹⁷⁷ Quite contrarily, the separatist majority in the Crimean Soviet was persistent in its decision to resist the pressure, and even passed several resolutions aimed at regaining the autonomy's powers that had been stripped by the centre. The most confrontational move was the decision taken on 25 April to hold, on 25 June, i.e. simultaneously with the local elections, a referendum. It would ask the Crimean voters whether they supported the constitution of 6 May 1992 and the recent Ukrainian law on the ARC, as well a proposal for the economic and political unity of Russia, Ukraine, and Belarus. Kuchma immediately called the referendum unconstitutional, and threatened that Kyiv would take further punitive actions. Ukraine's Prosecutor General submitted his formal protest. The Crimean parliamentarians withdrew the question about the population's attitude to Ukrainian law, but insisted on holding a referendum on the autonomy's constitution. They appealed to the presidents and parliaments of Ukraine and Russia to act as guarantors. The Duma decided to send its observers to the referendum, and requested the Ukrainian authorities to ensure that the Crimeans have the right to express their free will.¹⁷⁸ Once again, the relations between Kyiv and Simferopol seemed to be deadlocked.

2.4 *The Round Table in Locarno (May 1995)*

During the entire year (May 1994 - April 1995), when fierce confrontation took place between Kyiv and Simferopol, as well as between the autonomy's power branches, the HCNM issued no further formal recommendations. However, he continued to observe the situation in and around Crimea, and visited Ukraine often (in early November and late December 1994, as well as in early April 1995). As he repeatedly talked with the Ukrainian and Crimean leadership and other relevant parliamentarians and officials in the capital and on the peninsula¹⁷⁹, van der Stoel was becoming more acquainted with the positions, and changes thereof, of the parties involved. He was also acquainting the parties with himself as a personality, and with the HCNM as an institution, thus making them more ready to accept his intervention and mediation. Throughout his meetings, van der Stoel referred to the basic elements of the OSCE's position on the Crimean problem, as formulated in the decision of the CSO in June 1994. As mentioned above, the position included, apart from the preservation of the peninsula's autonomy, respect for sovereignty and territorial integrity of Ukraine, as well as respect for the fundamental principles of its constitution.¹⁸⁰

The High Commissioner kept appealing to both the central and the autonomy's authorities to refrain from confrontational moves. However, neither in view of imminent moves made by the Ukrainian authorities against the rebellious autonomy, which the OSCE Mission repeatedly warned of in its reports, nor in the face of the *fait accompli*, did van der Stoel abandon his reliance on silent diplomacy in favour of public statements or more resolute intervention, be it direct addresses to the Ukrainian leadership or appeals to the OSCE bodies and participating states to put pressure on Kyiv. In particular,

¹⁷⁵ See e.g.: Solchanyk 1995, p. 11; Sasse 1998, p. 26.

¹⁷⁶ Back in December 1994, in his first comments on the Russian invasion, the leader of the Kurultai parliamentary faction, Refat Chubarov, stated that now "Russia would not react very nervously if Ukraine resorted to a tough mechanism in order to bring the Crimean legislation into line with the Ukrainian one". Khronika 1995a, p. 139.

¹⁷⁷ Taking advantage of the centre's indignation with Tsekov's speech in the Duma, the opposition deputies dissociated themselves from his stance. They appealed to the Ukrainian parliament to dissolve the Supreme Soviet of the Republic of Crimea, and to recognise the Verkhovna Rada of the Autonomous Republic of Crimea, as being composed of those who had signed the address. The national parliament praised the appeal, and suggested that all of the autonomy's deputies "promptly make clear their personal attitude" to Kyiv's recent resolutions on Crimea. However, the delegation that was sent to Simferopol failed to elicit declarations of loyalty from the majority of the deputies, despite threatening that the autonomy's parliament would be dissolved. Khronika 1995b, p. 149; UCIPR 1996, pp. 137f (quote on p. 138).

¹⁷⁸ Beletskii et al. 1995b, p. 14; Khronika 1995b, pp. 150f; Chronology 1995, p. lv.

¹⁷⁹ OSCE Newsletter, 11/1994, p. 8; 4/1995, p. 7; 6/1995, p. 3; Golos Kryma, 14 April 1995, p. 1.

¹⁸⁰ OSCE Newsletter, 4/1995, p. 7.

contrary to the hopes and suggestions of Head of the Mission (HOM) Andreas Kohlschütter, who qualified the resolutions of the Verkhovna Rada and Kuchma's decree passed in March 1995 as threatening the autonomy and minority rights, taking every opportunity to call for "preventive diplomatic intervention", the HCNM failed to clearly express his condemnation of those measures during a visit to Ukraine on 4-8 April.¹⁸¹ Moreover, he did not hold a meeting with Meshkov, thus accepting his dismissal as irrevocable. He also promptly switched to the name of the autonomy that Kyiv had come to insist on, the ARC. Other OSCE bodies did not unequivocally criticise Kyiv either. It is true that a statement of concern by the EU was presented to the Permanent Committee as early as 23 March, and a week later the Hungarian Chairman-in-Office (CiO) sent a note to the Ukrainian foreign ministry, suggesting that Kyiv revoke its newly adopted law on the ARC and resume a dialogue with Simferopol on the "special status of Crimea within Ukraine". However, a similar decision of the Permanent Council, warning against further unilateral steps, was not passed in early May, as the CiO suggested not to "make things difficult for the Ukrainians". Such a turn reflected a change in attitude of the leading OSCE states, primarily the USA. As Kohlschütter suggests, this could have been caused by their new appreciation, contributed to by the war in Chechnya, of Ukraine's strategic importance to European security and national interests of the member states.¹⁸²

The aforementioned attitude of the High Commissioner may have been the result of not only his taking into account the OSCE general priorities regarding the issue in question, but also of his view that quiet methods were best suited to deal with the situation. This was particularly the case, as he could not rely on the OSCE bodies and/or states to pressure the Ukrainian authorities (see section 5.1). Another possible reason for the HCNM's reserved reaction towards Kyiv's tough measures could be that he deemed those measures inevitable, in view of the Crimean parliament's disobedience, and maybe even desirable, in terms of establishing more balanced relations between the centre and the autonomy. That is, the autonomy was thus clearly denied its own statehood and demoted to the level of autonomy proper. One may suggest that he was, in some sense, waiting for both parties to get 'ripe' for his active involvement. In particular, this applied to the Crimean leadership, who had to develop a more realistic perception of their own possibilities to resist the Ukrainian authorities, and of Moscow's willingness and ability to prevent Kyiv from resolute actions against Simferopol, so that they, the Crimean leadership, could start looking for the help of international organisations in preserving the autonomy's rights.¹⁸³ Whatever the case, van der Stoel clearly wanted neither further curtailing steps by Kyiv, such as the dissolution of the Crimean parliament, nor assertive moves by Simferopol. He would soon manifest this view in another letter to the Ukrainian foreign minister (see section 2.5). He did not, however, have any leverage to make the parties stay in, or come (back) to, a disposition he might view as a compromise. Although on the day of his arrival on the peninsula the Supreme Soviet appealed to the High Commissioner to ensure, *inter alia*, that the OSCE played an active mediating role in the conflict,¹⁸⁴ his own appeal for restraint did not prevent the separatist majority from its decision to hold a referendum.

Under these conditions, a Ukrainian round table, organised on 11-14 May in Locarno, Switzerland, presented an important opportunity for the HCNM to do all he could to help overcome the confrontation, that is, to bring together relevant actors from both the centre and the autonomy, and promote a dialogue between the parties. On the one hand, van der Stoel sensed, as his advisor has suggested, that "the parties were literally too far apart", and that other issues frequently preoccupied them. This was especially the case with regard to leading members of the Ukrainian parliament, which was by then heatedly debating constitutional matters. Therefore, van der Stoel wanted to bring relevant personalities somewhere outside the country, where they could focus their attention and directly benefit from the advice of the OSCE team of experts.¹⁸⁵ The task was facilitated by the parties' confidence in the OSCE's impartiality and its mediating capability, which had by then been created through the efforts of both the High Commissioner and the Mission.¹⁸⁶ On the other hand, van der Stoel had experienced

¹⁸¹ Kohlschütter 1996, p. 133f.

¹⁸² Ibid., p. 133 (quotes), 134.

¹⁸³ Johansen 1999, p. 94.

¹⁸⁴ Krymskie izvestiia, 7 April 1995, p. 1.

¹⁸⁵ Packer 1998, p. 308.

¹⁸⁶ According to Kohlschütter, at the beginning of the Mission's activity in Crimea, the autonomy's separatist actors perceived it as another instrument of the Ukrainian government. The earlier visits of the HCNM had made them believe

that "parties often lack the structures of dialogue required for direct and concrete talks where genuine positions may be expressed without having to defend slogans designed for public consumption and without fear of losing face".¹⁸⁷ He made arrangements for such a dialogue, and directed it through his private consultations with each party, as well as through agenda-setting and summations. Some authors call this type of work 'facilitative' or 'preventive mediation'.¹⁸⁸

The round table, attended by 16 Ukrainian and Crimean high-ranking government officials and parliamentarians, and co-chaired by the HCNM and HOM, proved to be quite successful in discussing and diminishing differences between the participants' views on Crimea's status and powers. Three days of direct personal exchanges between the political actors from Kyiv, Simferopol and Sevastopol, in conditions of confidentiality and under OSCE guidance, enabled them to resume the ability to participate in a dialogue, as well as find a common ground for it. Kohlschütter later referred to the "spirit of Locarno" that inspired the parties to keep to the agreement that was reached at the round table, and to fulfil the plan of eliminating the differences between their positions.¹⁸⁹ Although the effectiveness of this 'spirit' seems to be overestimated in his statements, as further conflicting moves of the parties demonstrated, several participants of the round table also appreciated its atmosphere of open discussion, and recognised its significant impact on the following process of the search for a compromise.¹⁹⁰ In particular, Tsekov's satisfaction with the Locarno agreement contributed to it being accepted by the Crimean parliament. No less important was the fact that the results of the OSCE initiative were appraised by the Ukrainian leadership. Most enthusiastic seems to have been the reaction of the parliament's speaker, Oleksandr Moroz, who, in a meeting with Kohlschütter on 24 May, reportedly qualified the results of the round table as creating "a new situation" and giving "hope for a civilised way out".¹⁹¹ His decision to follow the way that had been found in Locarno appeared to be an important factor for the adoption of a conciliatory decision by the Verkhovna Rada.

2.5 *The Locarno Recommendations and First Steps to their Implementation*

[E]verything ought to be avoided which could lead to an escalation of existing tensions. In this connection, we urge the Parliament of the Autonomous Republic of Crimea not to proceed with its plan to submit to a referendum the Crimean Constitution which was abolished by the Ukrainian parliament. We also feel that it would not bring the solution of the existing problems any nearer if the Crimean Parliament were dissolved.

[W]e were especially struck by the fact that a considerable number of participants in the Round Table, who often differed in the past, expressed the view that the law of Ukraine on the demarcation of powers between the organs of state power of Ukraine and the Republic of Crimea of June 1992 (which did not enter into force) contained important elements for an eventual solution of the problem. We share this view (...). One could even envisage that the essential parts of the law on the demarcation of powers, with some modifications and additions, could constitute the future constitution of the Autonomous Republic of Crimea, and that the Ukrainian Parliament would adopt a parallel constitutional law with the same

that the OSCE was only concerned with Ukraine's territorial integrity and the Crimean Tatar problem. Kohlschütter 1996, p. 130. Kohlschütter's evaluation of the Mission's (and, implicitly, his own) role as creating "capital of confidence" seems to be exaggerated. It is obvious, if only from the above mentioned address given by the Crimean Soviet to the HCNM in order to ensure the OSCE mediation, that this capital was also created by van der Stoep's efforts. On the other hand, Packer stresses the role of the High Commissioner's efforts, neglecting those of the Mission.

¹⁸⁷ Packer 1998, p. 308.

¹⁸⁸ Ibid.

¹⁸⁹ Kohlschütter 1996, p. 138.

¹⁹⁰ Interviews with Chubarov, 16 September 1999; Shulha, 22 September 1999; Stretovych, 20 October 1999; and Tsekov, 22 October 1999. It is worth noting that Chubarov does not consider the Locarno talks to have been entirely successful because he saw a lack of "constructiveness" in the attitude of the separatist Crimean parliamentarians, headed by Tsekov. Chubarov believes a breakthrough was first made at the Noordwijk round table in March 1996. In contrast, Tsekov was more satisfied with the Locarno common ground for a broad autonomy for Crimea than with the Noordwijk recommendations. The latter were presupposing a considerably narrower scope of the autonomy's rights, which the HCNM agreed with, thus making it more difficult for the Crimean leadership to resist Kyiv's pressure (see section 2.10).

¹⁹¹ Quoted in: Kohlschütter 1996, p. 139.

content. Agreement on this basis would also end the present subordination of the Crimean Government to the Government of Ukraine.¹⁹²

The OSCE's recommendations, which Kohlschütter referred to as 'the Locarno Paper', were, as early as 15 May, presented to the parties in the HCNM's letter to Minister for Foreign Affairs Udovenko, with an explicit request to have them sent to the Ukrainian and Crimean parliaments as well. Given the level of confrontation, van der Stoel and other OSCE representatives deemed it useful to immediately offer the parties "some comments and suggestions of a more general nature". These would be issues on which they had reached a "unanimous view", while some other aspects of the problem that had been discussed in Locarno required "further reflection and analysis" on their part.¹⁹³

As a basis for any solution to the controversy over Crimea's status, the Locarno Paper reiterated the same elements of the OSCE's position which the High Commissioner had referred to in his earlier talks in Kyiv and Simferopol. It is true that the respect for the autonomy of Crimea was not mentioned, but the authors clearly supported some level thereof that corresponded to the territorial integrity of Ukraine and the supremacy of its constitution. This was evidenced by the reasons that they gave for sharing the view that a possible solution could be based on the demarcation law. The law, they argued, laid down "some basic principles which usually govern the relationship between an autonomous republic and the central state organs". The acceptance of those principles by Simferopol, i.e. its giving up the idea of Crimean statehood, would have been welcomed as "a major step towards a solution" by the OSCE team. At the same time, the law summarised the competencies reserved for Simferopol, thus making it clear that the peninsula would have substantial autonomy. Furthermore, the law gave the Crimean parliament the right to appeal to the Constitutional Court of Ukraine, if it considered that Ukrainian legislation was infringing upon the powers of the ARC. No less important was the principle that powers of the autonomy could not be altered unilaterally, making the demarcation established by the law rather stable. The OSCE team recommended that Kyiv and Simferopol make "a determined effort", as soon as possible, to reach an agreement on the future status of Crimea, based on the above elements.¹⁹⁴ By expressing their belief that such an agreement would end the subordination of the Crimean government to that of Ukraine, which the decree of 31 March had introduced pending the adoption of the autonomy's new constitution, the authors supported eliminating 'excessive' curtailing of the Crimean powers, i.e. one stepping beyond the demarcation principles that they favoured.

The above recommendations included *general* ones defining what the status of Crimea should look like, and *operational* ones determining how to move to that goal and, by the same token, how to prevent the escalation of the existing tensions and eventually remove them. Apart from these recommendations, the HCNM and his collaborators also addressed some specific problems which would arise if the proposed delineation of powers was followed. Suggestions on how to deal with those problems constituted a sizeable group of *substantial* recommendations in the Locarno Paper. Bearing in mind that the Crimean leadership's claims for the status of the peninsula were fuelled by their striving for economic powers, the authors recommended that Kyiv and Simferopol begin negotiations as soon as possible on the implementation of that point in the demarcation law, "which on the one hand gives to the Autonomous Republic of Crimea the right to own the land, mineral wealth, water and other natural resources on its territory, but which, on the other hand opens the possibility of curtailment of this right by Ukraine". Similarly, they argued that the Crimean claims for dual (Ukrainian and Russian) citizenship were to a considerable degree motivated by the problems that many of the peninsula's residents had with the transfer of their pensions from, or going to study in, the Russian Federation. The OSCE representatives suggested that these problems be solved with a special agreement between the two states.¹⁹⁵ Another problem that the OSCE team considered requiring an immediate solution to was the realisation of the right of the autonomy's parliament to appeal to the Constitutional Court of Ukraine. The court would decide on the constitutionality of the acts of the central legislature and executive, which Simferopol saw as running counter to the demarcation law. By the time that these recommendations were issued, the Constitutional Court had not yet been formed due to differences between the

¹⁹² Letter by van der Stoel to Udovenko, 15 May 1995, pp. 792-793.

¹⁹³ Ibid., p. 792.

¹⁹⁴ Ibid., p. 793.

¹⁹⁵ Ibid., p. 794.

left and right wings in the Verkhovna Rada. Moreover, it was unlikely that these differences would be solved soon.¹⁹⁶ Indeed, in July 1995, another attempt to elect judges failed, and it was only in autumn 1996 that the court began its activity. Under these conditions, the authors deemed it desirable that the Ukrainian and Crimean parliaments create a temporary "organ of conciliation with the task of suggesting solutions to differences arising in the course of the dialogue about relevant legislation".¹⁹⁷

Although the full implementation of these recommendations required some time, this process had to be started immediately. The failure of the Crimean parliament to annul the referendum, which was to be held just a month later, would have made impossible the implementation of the agreements made in Locarno. An important role in encouraging both parties to formally fix this agreement was played by the OSCE Mission and by Kohlschütter personally. He held a number of meetings with heads of both parliaments and other influential politicians, was present at a relevant sitting of the Verkhovna Rada and even delivered a speech in the Supreme Soviet of Crimea when it was about to vote on cancelling the referendum. This gave the ambitious HOM an opportunity to establish a more active and independent position. This was important to him, because he did not want to reduce the Mission's activity to merely helping the HCNM and, as mentioned above, he did not share van der Stoel's views of a preferable mode of OSCE behaviour under the conditions that prevailed in Ukraine. Although both Moroz and Tsekov were willing to follow the recipe proposed by the OSCE mediators, neither of them was confident of being able to resist radical deputies' calls for resolute measures, or of his ability to overcome the distrust of a majority of his parliament, if the other were ready to compromise. This distrust was reflected in proposals that the Presidium of the Crimean Soviet sent to its counterpart in Kyiv on 22 May. Before the autonomy's parliament revoked its decision on the referendum, the Verkhovna Rada was to put into effect the demarcation law as a basis for the new status of the autonomy, and had to annul the law on the ARC and the presidential decree on the subordination of the autonomy's government to Kyiv. It also was to restore the Crimean Constitution of 1992, with the exception of articles running counter to the Ukrainian constitution and the law on demarcation of powers. While referring to the OSCE's recommendations, the Crimean leadership did not act in accordance with 'the spirit of Locarno'. They wanted the Ukrainian parliament to go the whole way first, preferring to meanwhile keep the referendum weapon ready and not start bringing the autonomy's legislation into line with the national one.¹⁹⁸

It is understandable that many Ukrainian parliamentarians did not consider the Crimean proposals a step towards a compromise. Dmytro Stepaniuk, who on 25 May presented the issue to the Verkhovna Rada on behalf of an ad hoc commission on the Crimean problem, even qualified the proposals, along with the Supreme Soviet's continuing preparation for the referendum, as running counter to the recommendations of the Locarno round table. He believed that inserting the provisions of the demarcation law in a new Crimean constitution, as was recommended by the OSCE, was acceptable, as long as this did not bring the constitution "beyond the legal field of Ukraine". However, he objected to annulling the law on the ARC, as had been suggested by the Crimean parliament, because the part of the law concerning economic powers was based on the demarcation law. He also insisted on the provision of the former (in contrast to the latter) that the autonomy's constitution was to be confirmed by the Verkhovna Rada, which the Crimean leadership was highly reluctant to admit. According to Stepaniuk, most members of the ad hoc commission came to the conclusion that the legislative potential of the current autonomy's parliament was "exhausted", meaning that it was unable to bring the Crimean legislation into line with the Ukrainian one. Therefore, the commission proposed to schedule an early election of the Crimean Soviet, as well as to annul the decision on the referendum by a resolution of the Verkhovna Rada, thereby clearly running counter to the Locarno agreement.¹⁹⁹

¹⁹⁶ On 1 June 1994, after the restoration of Crimea's separatist constitution, President Kravchuk appealed to the Verkhovna Rada to speed the formation of the Constitutional Court. According to the current Ukrainian Constitution, as well as to the demarcation law, it was the only body empowered to annul the decisions of the Crimean parliament that were held to be running counter to the Ukrainian legislation. The deputies, however, preferred to amend the Constitution in a way that enabled the Verkhovna Rada itself to nullify Crimean acts. See Persha sesia VRU, Bulletin No. 18, [Kyiv] 1994, pp. 6-103; Bulletin No. 19, pp. 73-103. In contrast, soon after the abolishment of the Crimean Constitution in March 1995, the OSCE ambassadors declared that "[i]t is highly unsatisfactory to have the Ukrainian Parliament play lonely and supreme 'judge' of constitutional frictions between Kyiv and Simferopol". Quoted in: Hopmann 2000.

¹⁹⁷ Letter by van der Stoel to Udovenko, 15 May 1995, p. 794.

¹⁹⁸ Krymskie izvestia, 24 May 1995, p. 1.

¹⁹⁹ Tretia sesia VRU, Bulletin No. 63, p. 58-64 (quotes on p. 62).

Moroz, however, managed to prevent the parliament from approving this proposal. Referring to the results of the Locarno talks, and the OSCE recommendations that followed, he instead proposed to appeal to the Crimean parliament to revoke its decision on the referendum and to submit a draft of the autonomy's new constitution, which would be based on the demarcation law. After one week, the ad hoc commission was to inform the Verkhovna Rada on the implementation of this demand. If the Crimean Soviet failed to cancel the referendum, the Ukrainian parliament would pass the resolution that was proposed by the ad hoc commission. The crucial point, according to Moroz, was to give the peninsular deputies the last chance to act in the interests of both Ukraine and Crimea, as well as to follow the OSCE's recommendations.²⁰⁰ He succeeded in getting his proposal approved by a majority, but had to resort to flagrant violation of the parliamentary procedure.²⁰¹

The conciliatory resolution opened a possibility for the Crimean parliamentarians to take the next step. On 31 May, when Kyiv's appeal was discussed, Kohlschütter was invited by the Presidium to directly address the session. The idea was that he present the results of the Locarno round table and the way to overcome the confrontation between Kyiv and Simferopol, which had been proposed by the OSCE. His speech²⁰² was based on the Locarno Paper, somewhat deviating from it towards support for the Crimean side²⁰³. It stressed the balance between the principles of Ukrainian sovereignty and Crimean autonomy, exemplified by the law on the demarcation of powers, as the ground for compromise. The speech also contained an appeal to refrain from both the referendum on the constitution and referendum on the union with Russia and Belarus. At the same time, Kohlschütter emphasised the OSCE's insistence on Kyiv's reciprocal refusal to dissolve the autonomy's parliament, and expressed his hope that a reasonable position of Moroz would ensure this result. Moreover, he pointed to the establishing of a conciliatory body, recommended in the Locarno Paper, as a way of making coexistence and co-operation between the two legislatures possible.

Kohlschütter's speech evoked a highly negative reaction from the Mejlis, which had objected to the demarcation law at the time of its adoption in 1992, and supported the measures taken by Kyiv in March 1995 to curtail the pro-Russian Crimean leadership's power. They therefore clearly did not want it to be restored to its previous scope. Indeed, the Crimean Tatars considered the very fact of a public speech by the OSCE representative inadmissible, since it was presented by their opponents as evidence of support for their position from the organisation.²⁰⁴ The Kurultai faction and other opposition deputies refused to take part in the vote on cancelling the referendum, claiming that the previous decision had to be revoked by those who had adopted it.²⁰⁵ In contrast, factions of the Russia bloc reacted to Kohlschütter's proposals and promises favourably.²⁰⁶ They voted unanimously, though by a very thin majority of the whole parliament, to cancel the referendum on the constitution. However, the referendum on the union was not even mentioned in the resolution. They also instructed the

²⁰⁰ Ibid., pp. 75ff.

²⁰¹ Moroz did not even put to vote the above-mentioned proposal of the ad hoc commission, which was in charge of preparing a draft on the issue when it was to be considered by the parliament. Instead, he made the parliament vote on his own proposal, which had not been discussed in the commission or the relevant standing committees (Ibid). The parliamentary procedure would have required such discussion. Moreover, the nationalist opponents of his proposal objected to basing a future Crimean constitution on the demarcation law which had been invalidated by the Verkhovna Rada. They denounced the resolution, which had been pushed through by Moroz, as amounting to a "drastic change" of the Verkhovna Rada's policy with regard to the autonomy. However, the speaker rejected their demands for another vote on revoking the resolution that he had suggested. Ibid., Bulletin No. 64, pt. 1, pp. 5-9, 16 (quote on p. 8).

²⁰² For the text, see: OSCE Mission to Ukraine, Activity and Background Report No. 7, 5 June 1995, Annex II, as referred to in: Büscher 1999, p. 6, fn. 12.

²⁰³ For example, Kohlschütter stated that the adoption of the new autonomy's constitution, based on the Locarno principles, would end not only the subordination of the Crimean government to Kyiv, but also the curtailment of the autonomy's powers imposed by the Verkhovna Rada's decisions of 17 March.

²⁰⁴ Ukrainskii domashnii razgovor 1995; interview with Budzhurova, 22 October 1999. For the same reasons, the reaction in Kyiv was no less negative, and provoked, for the first time, calls to end the Mission's activity (Büscher 1999, p. 6).

²⁰⁵ Kohlschütter 1996, p. 140. One may suppose that, given their striving for the dismissal of the separatist leadership of the Soviet and their support of Kyiv's measures, the Tatar deputies were even interested in getting a negative result on the vote on cancelling the referendum, since that would probably result in the dissolving of the Crimean parliament.

²⁰⁶ Contrary to the Crimean Tatars, pro-Russian politicians on the peninsula appreciated Kohlschütter's activity more than that of van der Stoep. This is due to the HOM's above-mentioned criticism of Kyiv's measures against Simferopol, and to the pro-Crimean tone of his speech in the Supreme Soviet. One may also suggest that this has to do with his much more reserved attitude towards the Tatars. Interview with Tsekov, 22 October 1999; speech by Oleh Kyrilov (Oleg Kirillov, 1995), head of the Russian Community of Crimea, at the round table in Yalta in September 1995.

constitutional commission to "continue working" on a draft of the new constitution, which would include the demarcation law as a separate chapter, and to submit the draft to the Ukrainian parliament. Moreover, they addressed the latter with a proposal to establish a "plenipotentiary inter-parliamentary body" to resolve the legislative disputes between Kyiv and Simferopol. In an introduction to the resolution, this consent to the Ukrainian parliament's proposals of 25 May (or, rather, compliance with its demands) was justified by the fact that they corresponded to the OSCE's recommendations. The proposals were even qualified as evidence for a "new approach of the Verkhovna Rada of Ukraine to resolving of the Crimean problem", thus making it possible for pro-Russian deputies to save political face.²⁰⁷

Nationalist factions in the Verkhovna Rada denounced Kohlschütter's speech as an intervention in Ukraine's internal matters and as propaganda of "purely pro-Russian imperial ideas in Crimea". They considered his calls for preserving the Crimean autonomy, and basing it on the demarcation law, to be transcending the Mission's tasks. They objected to unreserved implementation of his recommendations, and appealed to the Verkhovna Rada to demand that the HOM be recalled. Arguing that the autonomy's parliament had not fulfilled the national parliament's resolution of May 25, and in particular, that it had failed to cancel the referendum on the union, they insisted on taking further resolute measures.²⁰⁸ Moroz, however, refused to put the Crimean issue on the session's agenda, and it did not appear there for a long time. This meant that the other HCNM's recommendations, which required legislative acts for their implementation, were not dealt with either. In particular, the session never discussed the establishing of a body empowered to solve emerging tensions between Kyiv and Simferopol. In any case, it would have had little chance of being approved, since the majority of Ukrainian parliamentarians, as noted above, unequivocally objected to placing the centre and the autonomy on an equal footing.²⁰⁹ In effect, the Verkhovna Rada simply waited for the Crimean parliament to submit a draft of the autonomy's new constitution.

Meanwhile, on 30 June, Udovenko replied to van der Stoel's letter of 15 May. By then, the HCNM had visited Ukraine once more, on 18-20 June, to propel forward the negotiations between Kyiv and Simferopol.²¹⁰ The foreign minister expressed his satisfaction with the results of the High Commissioner's intervention. He pointed to "certain promising tendencies in the development of the situation in the ARC", in particular the annulment of the referendum, as "evidence of a certain influence of recommendations developed in Locarno".²¹¹ However, rather than explaining these tendencies by the reciprocal compromising moves of both parties, with OSCE assistance, his explanation was that Crimean leaders had begun to realise that their previous separatist course had no future. He hoped to strengthen this realisation through "joint and consistent efforts by Ukraine and the OSCE". Accordingly, Udovenko shared the HCNM's view that a solution of the Crimean problem should be based on respect for Ukrainian sovereignty, territorial integrity and basic principles of its constitution. He was, however, reluctant to recognise the demarcation law as a ground for such a solution, making instead a non-committing statement that "[u]seful material to determine the scope of the ARC authorities mandate may be taken from the text" of that law. He supported the OSCE team's suggestion that the issue of dual citizenship should be de-actualised by solving the underlying social and economic problems, but made no reference to his government's intention to begin negotiations on the matter with Russian authorities. As for other recommendations, the foreign minister only stressed that they had been "thoroughly" studied by Ukrainian authorities. However, he failed to formulate any attitude, even though he sent his reply to The Hague six weeks after receiving the letter from van der Stoel.²¹² One could

²⁰⁷ Postanovlenie Verkhovnogo Soveta Kryma, 31 May 1995. The parliamentarians also passed a special address to the Crimeans, in which they explained in more detail the results of the Locarno round table, and the essence of the OSCE recommendations.

²⁰⁸ Tretia sesija VRU, Bulletin No. 71, pt. I, pp. 16ff (quote on p. 16). Moroz defended Kohlschütter against nationalists' accusations, referring to the HOM's statement that his speech had been misinterpreted by journalists. (Ibid., p. 26). Whether or not the text presented by Kohlschütter to the OSCE bodies was identical to the speech delivered (this was called in question by the Ukrainian authorities), even the former included points - mostly those from the Locarno Paper - which were clearly unacceptable for the nationalists.

²⁰⁹ The Verkhovna Rada preferred to solve the existing problems through interim joint groups of deputies of the two parliaments, a negotiating (rather than a judging) body which, according to Udovenko, turned into a "constructive channel" (letter by Udovenko to van der Stoel, 30 June 1995, p. 801).

²¹⁰ OSCE Newsletter, 6/1995, p. 3.

²¹¹ Letter by Udovenko to van der Stoel, 30 June 1995, p. 800.

²¹² Ibid., p. 801.

suppose that, contrary to 1994, the Ukrainian leadership did not want to overtly reject any of the HCNM's recommendations, even if they were not seriously inclined to consider their implementation, because his involvement was perceived as useful and desirable.

Thus, in May 1995, the intervention of the High Commissioner and other OSCE representatives made it possible to avoid an escalation of the conflict between the Ukrainian and Crimean authorities, and to find a common ground for dialogue between the two parties. At the same time, this intervention established, for the first time, the OSCE as an attractive and authoritative mediator in the conflict, even though few were capable to identify the HCNM as a separate actor among representatives of the organisation at this point.²¹³ The result, however, did not mean overcoming differences in the parties' approaches to the Crimean problem. Nor was there even a steady negotiating movement in that direction. On the one hand, the autonomy's leadership tried to use the Locarno recommendations as a means to revoke Kyiv's curtailing measures and to preserve (or restore) 'Crimean statehood'. Ukrainian parliamentarians and officials mainly refused the very idea of basing relations between the centre and the autonomy on a bilateral treaty, which the former would be unable to change. On the other hand, the attention of the parties was soon distracted by other problems again, most notably by rising tensions between the autonomy's authorities and the Crimean Tatars. This also changed the focus of the OSCE activities in Ukraine for some time (see below). Nevertheless, even partial implementation of the High Commissioner's recommendations no doubt strengthened his belief, expressed in his letter of 15 May, that "the Round Table is a useful instrument in search for solutions", thus buttressing his hope that "this formula can be used again in the future".²¹⁴

2.6 The Beginning of the Crimean Constitutional Process (June - September 1995)

On 25 June 1995, the election of deputies and heads of local councils (Soviets) on the peninsula resulted in an impressive victory for the Communist Party of Crimea.²¹⁵ This evidence of the drastic decline of popular support for the parties of the former Russia bloc was soon followed by their loss of power in the autonomy's parliament. On the same day that the election took place, the peninsula evidenced the largest scale of violent protests of the Crimean Tatars against atrocities of the criminal groups and indulgence on the part of the authorities. Two days before, two Tatar market sellers had been killed by racketeers in a village in eastern Crimea. The protests found expression in attacks on stores and restaurants that were supposedly controlled by the gang which was guilty of the murder. They resulted in bloody clashes between the Tatar groups and militia units, during which two more Tatars were killed and several were badly wounded.²¹⁶ This unrest, unprecedented in the history of independent Ukraine, enabled the central government, under the pretext of resolute actions against organised crime, to establish full control over Crimean law enforcement authorities, subordinating the autonomy's executive in general more strictly. At the same time, the Crimean parliamentary opposition took advantage of this obvious demonstration of the separatist leadership's inability to secure social stability, in order to finally dismiss Tsekov on 5 July. A member of a centrist Agrarians faction, Yevhen (Yevgenii) Supruniuk, was elected the new chairman of the Supreme Soviet. The following resignation of the Presidium resulted in further curtailment of the power of pro-Russian factions.²¹⁷ Having closed the separatist chapter in Simferopol's relations with Kyiv, this change opened the way for their normalisation.

²¹³ No difference was made between the OSCE participants in either Stepaniuk's or Moroz' references to the Locarno agreement in the Verkhovna Rada, or in Kohlschütter's speech in the Crimean Soviet. The High Commissioner's role was mentioned in connection with neither the round table nor the recommendations, and the common results of the OSCE team's intervention appeared to be primarily the achievement (viewed positively or negatively by various actors in Kyiv and Simferopol) of the Mission. Kohlschütter, who described the tasks of the Mission, further strengthened this projection, because he made no reference to the very existence of the HCNM as a separate institution. Soon, however, the Crimean politicians contrasted his speech (and his activities in general) with the style of van der Stoel's involvement. Interviews with Budzhurova and Tsekov, 22 October 1999. See also fn. 206 in this chapter.

²¹⁴ Letter by van der Stoel to Udovenko, 15 May 1995, pp. 794-795.

²¹⁵ Beletskii/Zaitsev 1996, p. 19.

²¹⁶ UCIPR 1996, pp. 152ff.

²¹⁷ Khronika 1996a, pp. 113f.

The main objective of the peninsular elites, except for the Tatar one, was to resume the Crimean parliament's control over the government. This would allow them to take care of their economic interests with more ease. After the dismissal of the rebellious leadership, a further move by the Supreme Soviet on 2 August, aimed at eliciting the Ukrainian president's consent to end the direct subordination of the Crimean government to Kyiv, was to formally revoke the March resolution of no confidence in Franchuk.²¹⁸ Kuchma responded on 19 August by issuing a decree on the executive bodies in the ARC. This stipulated, *inter alia*, that until a new Ukrainian constitution is adopted, the autonomy's prime minister would be appointed by its parliament, as agreed with the president of Ukraine. At the same time, local state administrations subordinate to its government, as well as to the government and president of Ukraine, were to be established in Crimea.²¹⁹ Thus, the Supreme Soviet's demand was met and the respective Locarno recommendation implemented, only in part.

The Crimean parliamentarians had to look for a way to get their preferred mechanism of appointing the prime minister fixed in a new constitution of the autonomy. This was all the more important because they were eager to check the omnipotent Franchuk.²²⁰ They hence had a stimulus to speed up the elaboration and adoption of its draft. On 21 September, the draft constitution was adopted in the first reading by a simple majority. In his presentation to the session, the head of the constitutional commission, deputy chairman of the Supreme Soviet Anushavan Danelian, argued that it was not a new constitution but rather a revised version of the constitution of 25 September 1992. It is worth reminding that the latter was in turn a revised version of that of 6 May 1992 and was not recognised by the Verkhovna Rada as conforming with the Ukrainian constitution and laws. In accordance with the demarcation law, which was included in the text as a separate chapter, the draft declared Crimea to be an autonomous part of Ukraine, independently deciding on matters assigned to its competence by the national and the autonomy's constitutions, as well as Ukrainian legislation. The conceptual base for the draft was, however, the same idea of Crimean statehood (rather than autonomy) which was embodied in the constitution of May 1992, and which was hardly acceptable to Kyiv. It was reflected in the old name of the autonomy, the Republic of Crimea (rather than the ARC), as well as in the stipulation of Crimean citizenship and "state symbols" as elements of statehood. The only element which was missing from the new version, in comparison with the old one, was that of president. There were several other provisions running counter to the valid Ukrainian law on the ARC. Its territory was described as including Sevastopol, which since the Soviet time constituted a separate administrative unit directly subordinated to Kyiv. The interior and justice ministries were to be established instead of departments for the respective Ukrainian ministries, and budgetary relations between the autonomy and centre were to be based on an agreement, the latter provision corresponding to the demarcation law. Moreover, the Crimean parliament did not accept the mechanism of approving the autonomy's constitution by the Verkhovna Rada, arguing that it would enable Kyiv to make unilateral amendments to a text passed in Simferopol.²²¹ The Supreme Soviet was not satisfied with the procedure of appointment of the autonomy's prime minister, which was introduced by Kuchma's decree of 19 August. At the same sitting, an address was passed urging him to amend (in fact, almost revoke) this decree.²²² Accordingly, the draft envisaged that the appointment be made by the Crimean parliament, without Kyiv's consent. The document clearly demonstrated that there remained a considerable gap between the positions of the parties, and that bridging this gap would not be easy. The draft constitution was adopted during another visit of the HCNM to the peninsula. It was therefore taken into account in a new series of his recommendations on the Crimean problem.

2.7 *The High Commissioner's Recommendations of 12 October 1995*

Although the clashes between the Crimean Tatars and the militia in June urged the HCNM to pay close attention to the returnees' problems, thus for some time shifting the focus of his involvement, he

²¹⁸ Ibid., p. 117.

²¹⁹ Ibid., p. 118.

²²⁰ Franchuk appeared to be the primary winner of Kuchma's decree. He could further strengthen his power on the peninsula, while manifesting an unreserved loyalty to Kyiv. However, both this power and loyalty evoked rising opposition among the MPs. Beletskii/Zaitsev 1996, p. 19.

²²¹ Danelian 1995.

²²² See: Postanovlenie Verkhovnogo Soveta Kryma, 21 September 1995.

could not stop dealing with the still dangerous tensions related to the status of Crimea. Moreover, he considered the overcoming of these tensions, and therefore political stabilisation on the peninsula, to be a precondition for raising considerable international donations for the resettlement and reintegration of the returnees.²²³ Having arrived in Ukraine for another OSCE-sponsored round table, which was this time devoted to the problem of the deported peoples and held in the Crimean town of Yalta on 20-22 September 1995, the HCNM took the opportunity to hold a series of meetings in Kyiv and Simferopol. These meetings were intended, in particular, to promote a further dialogue between the central and autonomy's authorities.²²⁴ In his letter to Udovenko, dated 12 October and devoted primarily to recommendations resulting from the Yalta talks, the High Commissioner also paid considerable attention to the remaining differences on Crimean constitutional matters.

Proceeding from the Locarno general recommendation to use the demarcation law of 1992 as a basis for defining the scope of the autonomy's competence, the HCNM presented several substantial and structural proposals. These concerned some specific issues of controversy, in particular those connected with inherent contradictions in the law. To begin with, he recommended that, although this stipulated foreign policy as being within exclusive competence of the centre, the autonomy,

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.²²⁵

This recommendation may appear somewhat strange, since such a right was recognised by Kyiv even in the law on the ARC. The High Commissioner, however, probably wished to eliminate a contradiction between the two provisions of the demarcation law, pertaining to powers of the centre and autonomy respectively. The latter included "participating in the formation and execution of Ukraine's domestic and foreign policy on questions touching the interests of the Republic of Crimea".²²⁶ Moreover, in the High Commissioner's view, Ukraine should commit itself to consult the ARC before concluding treaties of special relevance for the autonomy, as well as to include its representatives in official delegations to other states. This recommendation undoubtedly reflected the Crimean leadership's repeated complaints about not being invited to participate in negotiations on the Black Sea Fleet.

On the matter of citizenship, in contrast, the HCNM preferred to follow a provision of the demarcation law, which reserved it for the state organs of Ukraine, rather than an ambiguous formula of an introductory article of the same law, which implied separate citizenship for the autonomy ("Every citizen of the Republic of Crimea is a citizen of Ukraine"²²⁷). He recommended the removal of references to Crimean citizenship from its constitution, arguing that there was no need to stipulate this. The only right deriving from this citizenship, according to the latest draft, was the right to vote, which the residents of the peninsula held anyway. Such an argument once again demonstrated that the High Commissioner placed an emphasis on pragmatic interests, and denied legitimacy to claims on symbolic assets. It was primarily because of its symbolic importance as an attribute of statehood that the autonomy's leaders insisted on separate citizenship. In accordance with this pragmatic approach, the High Commissioner paid due attention to the Crimean authorities' insistence on getting a considerable share of state property that was situated on the peninsula. Repeating the call of the Locarno Paper for negotiations on the division of that property, he added that

arrangements will have to be made to ensure that an equitable portion of the revenues of Ukrainian property in Crimea and of natural resources of Crimea will be used for the benefit of Crimea.²²⁸

Finally, a recommendation regarding the problem of Sevastopol bore the same emphasis on pragmatic interests and real demands. As a compromising solution between Kyiv's insistence on a special status

²²³ Holos Ukrainy, 26 September 1995, p. 2; Krymskie izvestiia, 21 September 1995, p. 1.

²²⁴ OSCE Newsletter, 9/1995, p. 6; Holos Ukrainy, 20 September 1995, p. 1; Krymskie izvestiia, 21 September 1995, p. 1; 23 September 1995, p. 1.

²²⁵ Letter by van der Stoel to Udovenko, 12 October 1995, p. 804.

²²⁶ Law on the demarcation 1992, p. 796.

²²⁷ Ibid.

²²⁸ Letter by van der Stoel to Udovenko, 12 October 1995, p. 805.

of Sevastopol and Simferopol's striving for its incorporation into the Crimean autonomy, the HCNM believed that

[a] tripartite commission, composed of representatives of Ukraine, the ARC and Sevastopol, could be set up which would have as a task to come forward with proposals for intensifying the collaboration between Sevastopol and the ARC in various fields.²²⁹

Through this, he addressed the problem of common interests of Sevastopol and other parts of Crimea, especially in economic and environmental fields, which Kyiv's administrative policy tended to ignore. What was neglected in his recommendation, however, was not only the symbolic importance of Sevastopol for the Crimean Russians as a 'city of the Russian glory', but also the separatists' striving for the preservation of a linkage to Russia via the base of the fleet, for which Moscow was resolute to struggle to retain for the longest time possible. By remaining involved in the fleet problem, Simferopol wanted to prevent the controversy over the status of Crimea from becoming an internal matter for Ukraine. For this same reason, Kyiv insisted on the separation of the two administrative units, as well as the two problems. Whether the High Commissioner took at face value his Crimean interlocutors' complaints about the ties between Sevastopol and the rest of the peninsula being broken by Kyiv's policy, or whether he preferred to focus on these justifiable complaints while ignoring their hidden motives, his failure to address the underlying reasons for Simferopol's persistence made his recommendation unacceptable to the Crimean parliament. Kyiv was also not interested in institutionalising any connection between the autonomy and the city with a special status. The principle of the supremacy of the national constitution, where the two were listed as different administrative units, allowed the Ukrainian authorities to ignore this recommendation. Contrary to other proposals presented in the letter, it was never seriously discussed in negotiations between the parties.

In his reply of 14 November, Udovenko resorted to the same formula which he had used in his previous letter. He assured that the HCNM recommendations were "being studied" by the relevant Ukrainian institutions. The only point which he was ready to express a definite reaction to was the suggestion regarding Crimean citizenship. This was the only issue where van der Stoel's position coincided with that of the Ukrainian authorities.²³⁰

2.8 Adoption of the Crimean Constitution and Controversies over its Approval by the Ukrainian Parliament (October 1995 - March 1996)

When the Crimean leadership was preparing the draft constitution for its second reading and conducted negotiations with the centre on the division of property,²³¹ it became increasingly clear that they were not going to give up any of the autonomy's substantial powers. After all, a qualified majority was necessary to adopt the constitution, hence the leadership had to ensure that at least some deputies of the pro-Russian factions had sufficient grounds to support it.

During October, representatives of the Supreme Soviet went to Kyiv several times to negotiate the controversial points with relevant committees and the leadership of the Verkhovna Rada, as well as with the top officials of the Ukrainian executive. On 19 October, Danelian reported to the Crimean parliament on the intermediate results of the negotiations. According to him, while the texts of approximately 130 out of 150 articles of the draft had been agreed upon, the remaining 20 pertained to the most important issues. In particular, he referred to Kyiv's objections to the use of notions of "Crimean statehood", "Crimean citizenship" and "the people of Crimea".²³² By the end of October, as Danelian stated in an interview, the peninsular delegation managed to persuade its counterpart to accept Simferopol's position on most controversial issues. These allegedly included the autonomy's name, citizenship, property rights to most of the natural resources and the right to collect all taxes

²²⁹ Ibid.

²³⁰ Letter by Udovenko to van der Stoel, [14 November 1995] (quote on p. 806). The letter bears no date. The date in the brackets is derived from: Mychajlyszyn 1998, p. 33.

²³¹ On 4 October, when the Supreme Soviet considered the question of delimitation of the property of the Crimean health resorts, it flatly rejected the "colonising" plans of the Ukrainian authorities. Shakhniuk 1995a.

²³² Krymskaia pravda, 21 October 1995, p. 1.

directly for its budget (rather than channel money, collected on its territory, for redistribution in the centre, as was practice in other Ukrainian regions).²³³

On 1 November, when the Supreme Soviet considered the draft constitution, the members of both pro-Russian and centrist factions were unanimous in their support of the text, which retained the above-mentioned attributes and powers of the Crimean 'state'. This was all the more so the case because it was presented as a result of a compromise with Kyiv. The draft was discussed within a matter of hours, and was adopted by a qualified majority. The only controversial articles appeared to be those where the Kurultai faction, which had abstained during the first reading, insisted on a formulae envisaging "effective representation" of the Crimean Tatars in the parliament and self-government bodies, as well as "actual equality" of the three state languages of Crimea.²³⁴ Although the Tatar deputies boycotted the vote, and even protested by going on a hunger strike, they failed to prevent their opponents from adopting the constitution. Nor did they later succeed in making the parliament amend the constitution as demanded (see section 3.5).

Contrary to the hopes of the Crimean Soviet, however, its concomitant address to the Council of Europe, to ensure that the problem of the autonomy's status was settled prior to admitting Ukraine into the organisation, neither postponed the admission (which duly took place on 9 November),²³⁵ nor pressed the Verkhovna Rada to approve the Crimean constitution immediately and without reserve. The peninsular parliamentarians therefore had to continue their visits to Kyiv for further talks and persuading. At this stage, the relationship between approving the Crimean constitution and adopting the Ukrainian one became a major problem. The peninsula's politicians argued that the former would speed up the latter, since it would "resolve the entire complex of complicated constitutional problems", as an address of the PEVK to the Verkhovna Rada read.²³⁶ They also tried to ensure that respective articles of the Ukrainian draft constitution did not contradict the Crimean one. In contrast, many Ukrainian parliamentarians preferred to approve the autonomy's constitution simultaneously with, or after, the adoption of the national one, which it was to comply with. They therefore attempted to postpone the consideration of the former for as long as possible, usually under the pretext of the necessity of thoroughly expertising it in the relevant committees of the Verkhovna Rada. Differences also arose with respect to the procedure of consideration. The Crimean delegation proposed that after the committees submit their conclusions, the Rada approve the constitution as a whole. Moroz, however, preferred an article-by-article consideration of the text in the session, which raised old fears in Simferopol that the text could be changed. At the same time, he advised Supruniuk to obtain Kuchma's consent to those articles concerning the competence of the executive, such as appointing the autonomy's prime minister and top officials of the law enforcement bodies, the status of Sevastopol, etc. This consent was implied to be a precondition for the approval of these articles by the legislature.²³⁷

For some time, the attention of the Crimean deputies was distracted by a new round of struggle against Franchuk. It resulted in his resignation on 20 December, which was followed by the appointment of his deputy Arkadii Demydenko (Demidenko), who was no less loyal to Kyiv, as the new prime minister.²³⁸ However, the main goal of the Supreme Soviet remained the approval of the autonomy's constitution by the Verkhovna Rada. In particular, Supruniuk did his best to wrest such a concession from the centre as a means to strengthen his position on the peninsula. He repeatedly assured his colleagues that it was going to happen very soon. On 20 December, however, he addressed the Supreme Soviet with a statement accusing Kyiv of consciously postponing the approval and violating previous informal agreements between Kyiv and Simferopol.²³⁹ One could claim that this statement was intended not only to pressure the Ukrainian leadership, but also to prevent the pro-Russian opposition in the Crimean parliament from initiating more resolute moves. Such moves may have included the dismissal of Supruniuk himself, because many deputies believed that he was too 'pro-Ukrainian'.

²³³ Volodin 1995a.

²³⁴ Riabchikova 1995a, 1995b (quotes in the latter).

²³⁵ Supruniuk suggested that Simferopol try to profit from this occasion. He called for the adoption of the draft constitution by the Crimean parliament before the scheduled date of admission. Shakhniuk 1995b, p. 2.

²³⁶ Danilov 1995.

²³⁷ Volodin 1995b.

²³⁸ Beletskii 1996, pp. 21f; Volodin 1996a, 1996b.

²³⁹ Riabchikova 1995d.

The adoption of the autonomy's constitution running counter to the Ukrainian legislation and the propaganda campaign in the Crimean media against Kyiv's delay with its approval, as well as to some degree the dismissal of Franchuk evoked the discontent of many Ukrainian policy makers. On the eve of the new year, having returned from the peninsula, Yuri Karmazin, the head of the ad hoc parliamentary commission on the Crimean problem, stated in an interview that Simferopol's accusations had absolutely no grounds. He argued that the Crimean deputies themselves were to blame for the nearly six month delay in adopting the constitution (1 November instead of 15 May, as demanded by Kyiv). The Verkhovna Rada could consider the Crimean constitution in the near future, if the autonomy's parliament brought some articles into line with Ukrainian legislation. However, Karmazin criticised not only the above-mentioned provisions, aimed at asserting Crimean statehood, but also the fact that the autonomy's constitution contained the demarcation law, which had been annulled by the Ukrainian parliament.²⁴⁰ This argument clearly demonstrated that the Verkhovna Rada's resolution of 25 May, urging the Crimean deputies to base a new constitution on that law, was not considered a legitimate compromise document by some influential actors in Kyiv. Therefore, the common ground found in Locarno could not be taken for granted in further negotiations.

Moreover, the Ukrainian deputies, who were to consider the presented text, did not feel obliged by the conciliatory promises of central top officials and politicians, which the autonomy's leadership referred to (if they had ever taken place). On the contrary, key figures who were dealing with the Crimean problem unequivocally rejected the idea of immediate approval of what they believed to amount to a "constitution of a sovereign state". Volodymyr Stretovych, head of the parliamentary standing Commission on the Legal Policy and Judicial Reform, which was the commission in charge of expertising of the Crimean text and presenting it to the session of the Verkhovna Rada, publicly expressed his view that it should be demoted to a "kind of a charter of the Crimean administrative-territorial autonomy, without any features of a separate state, including state symbols".²⁴¹ Minister of Justice Serhii Holovaty even argued that the Crimean Soviet had to make an amendment to the constitution, which would read that the status of the autonomy was to be defined by a charter adopted by the Ukrainian parliament. Such an amendment would have destroyed the very idea of the bilaterally agreeable delineation of powers between the centre and the autonomy, and made a separate constitution of the latter pointless.²⁴²

The gap between the approaches of Kyiv and Simferopol further widened in early 1996, as a result of new centralising moves of the former and the consequent reactions of the latter. On 1 February, the Ukrainian government established its control over two sanatoria, which the Crimean authorities had declared the autonomy's property as early as autumn 1991, during nationalisation of the former all-Union communist party assets.²⁴³ Even more disappointing to the peninsula's politicians was the appointment of Dmytro Stepaniuk, a rather hard-line member of the parliamentary commission on Crimea, as the president's representative in the ARC. This appointment was made on 31 January without consulting the autonomy's leadership. It meant the further strengthening of Kyiv's control over the autonomy, given the concomitant enlargement of the representative's powers, which was introduced by a legally doubtful document by the presidential administration. These powers were henceforth to include, *inter alia*, the control over the implementation of Ukrainian legislative and normative acts by the Crimean executive bodies, enterprises and organisations; the issuing of instructions, obligatory for the above institutions; and appeals to justice to invalidate those institutions' acts held as running counter to Ukrainian legislation, even suspending them until a verdict was announced.²⁴⁴ The implementation of these powers would seriously undermine the independence of the Crimean government, as well as that of the parliament to which it was accountable, in matters of their competence. In other words, it would undermine the very substance of the autonomy, as had been formulated e.g. in the demarcation law. On 7 February, the Presidium of the Supreme Soviet addressed the Ukrainian Prime Minister Yevhen Marchuk, protesting against Kyiv's "unilateral actions".²⁴⁵ As Stepaniuk began

²⁴⁰ Tuhluk 1995. See also fn. 201 in this chapter.

²⁴¹ Koroliuk 1996, p. 2.

²⁴² Khronika 1996b, p. 173.

²⁴³ Orlov 1996a; Feoktistov 1996.

²⁴⁴ Orlov 1996a (excerpts from a statute of the president's representative added to that publication).

²⁴⁵ Orlov 1996b.

his activity on the peninsula, he further antagonised many Crimean policy makers with a tough stand against "anti-Ukrainian" activities of the pro-Russian organisations.²⁴⁶

The last drop, however, appeared to be a new draft of the Ukrainian constitution, elaborated by a working group of the constitutional commission and passed in late February for consideration by the latter. A chapter on Crimean autonomy, though using a number of provisions from the demarcation law, reduced the scope of the autonomy's competence to adoption and implementation of the budget and imposition of regional taxes. The document envisaged the retaining of the Ukrainian president's representation, whose powers were to be defined by a separate law, thus probably no less broad than those granted to Stepaniuk. In contrast, the Verkhovna Rada of the autonomy²⁴⁷ was to be a representative, but not legislative, body. It would be empowered to pass only "decisions and resolutions", not laws. Accordingly, the adoption, rather than the mere approval, of the Crimean constitution was assigned to the parliament of Ukraine. The autonomy's fundamental law was actually not termed a constitution, but a charter. Similarly, the autonomy was denied the name ARC, not to mention the Republic of Crimea that Simferopol preferred. Instead, references in the text were made to the Autonomy of Crimea.²⁴⁸

It is not surprising that reports about the draft evoked a very sharp reaction in Simferopol. On 7 March, the Presidium of the Supreme Soviet decided to convene an extraordinary session. Without waiting for its decisions, it issued a statement addressed to the Ukrainian leadership, the OSCE Mission, as well as the autonomy's parliamentarians and the people. According to the statement, recent "unilateral actions of the Ukrainian leadership" had brought into question the very existence of the Crimean republic. The authors accused Kyiv of a step-by-step violation of the autonomy's rights for independent economic policy and of substituting the president's representative for "the legitimate state power bodies of the Republic of Crimea". Finally, they claimed that Kyiv had demoted the autonomy's legal status. The Presidium declared the Supreme Soviet's right to lift, in view of the imminent threat, the moratorium on holding a referendum on the status of Crimea, as well as on restoring the constitution of May 1992.²⁴⁹

In an address to the Crimean parliamentarians which Supruniuk read during the session of 10 March, Moroz called for refraining from resolute decisions, arguing that the draft elaborated by the working group was only an intermediary version and that it by no means represented an official position of the Verkhovna Rada. The same point was stressed in a speech made by Stepaniuk, who pointed to the fact the Ukrainian parliamentarians, holding different political views, were not united in their attitude to the Crimean problem.²⁵⁰ Nevertheless, the pro-Russian deputies demanded to put the question on lifting the moratorium on the session's agenda. The Soviet limited itself to a resolution that qualified the draft's chapter on Crimea as running counter to the results of the 1991 referendum concerning the restoration of the autonomy and violation of Kyiv's international obligations. The resolution "proposed" that the Ukrainian parliament approve the autonomy's constitution by the end of March. It warned that, in the case of "further ignoring the expression of the Crimeans' will", the Supreme Soviet had the right to get the constitution approved by a referendum.²⁵¹

This step, which led to a new escalation in tension between Kyiv and Simferopol, took place on the eve of Yeltsin's long-awaited visit to the Ukrainian capital, when a friendship treaty between the two countries was to be finally signed. Moreover, it occurred in the midst of a presidential campaign in Russia, in which the 'Crimean card' still retained some value. Although the move of the Crimean deputies had hardly been inspired by Moscow, the fear of possible negative consequences for relations with Russia undoubtedly had a restraining impact on Kyiv's answer to Simferopol's challenge. Just as important for choosing a proper answer was the internal background, in particular with regard to the controversies over the adoption procedure and contents of a new Ukrainian constitution. The Crimean

²⁴⁶ Orlov 1996c; Stepaniuk 1996; Rossiiskaia obshchina 1996.

²⁴⁷ See fn. 35 in chapter 1.

²⁴⁸ Proekt Konstytutsii Ukrainy 1996a.

²⁴⁹ Zaiavlenie Prezidiuma Verkhovnogo Soveta Kryma, 7 March 1996.

²⁵⁰ Pilat 1996; Uriadovyi kur'ier, 12 March 1996, p. 3.

²⁵¹ Riabchikova 1996a. Another resolution called for the Verkhovna Rada to annul the law on the president's representative and demanded Kuchma to cancel his decrees on Stepaniuk's appointment and powers.

problem, though one of the controversial points, was not so far considered to be of primary importance (see section 2.11).

On 11 March, the constitutional commission approved the draft and decided to pass it to the Verkhovna Rada for consideration. However, the chapter on Crimea was reportedly criticised by both Moroz and Kuchma. The former announced at a press conference that the working group's proposals with respect to the Crimean problem did not mean a revision of the Rada's approach towards the autonomy's constitution. He hoped that the Ukrainian parliament, concerned about social stability, would neither reject the Crimean constitution nor change it for a charter.²⁵² In two days, the parliamentary commission headed by Stretovych recommended to the Verkhovna Rada that it consider the draft in the plenary session and that it approve most articles. At the same time, the commission found unacceptable those articles bearing features of a sovereign state, as well as several terms throughout the text where this was implied. It also proposed that the Verkhovna Rada address the Crimean parliament to continue working on the document.²⁵³ As Kyiv was not going to comply with Simferopol's demand, escalation of the conflict seemed inevitable.

2.9 *The Round Table in Noordwijk and the HCNM's Recommendations of 19 March 1996*

- 1) It would be desirable to adopt as quickly as possible a law of Ukraine on the approval of the Constitution of the Autonomous Republic of Crimea, which would approve the coming into force of the Constitution of the Autonomous Republic of Crimea with the exception of those articles which are still in dispute;
- 2) (...) editorial changes could be part of the law on the approval of the Constitution of the Autonomous Republic of Crimea;
- 3) (...) the law of Ukraine on the Autonomous Republic of Crimea remains operative in those parts which do not contradict the articles of the Constitution of the Autonomous Republic of Crimea which have been approved;
- 4) (...) I would express the hope that the Parliament of the Autonomous Republic of Crimea would give renewed consideration to the articles still in dispute within a month, and that the parliament of Ukraine would consider the new proposals of the Parliament of the Autonomous Republic of Crimea as soon as possible thereafter.²⁵⁴

During the above-mentioned period, the High Commissioner paid another visit to Ukraine on 24-27 January 1996. He discussed with the leadership of the Ukrainian and Crimean parliaments and the high officials of the two governments the problems of approving the autonomy's constitution, as well as the problem of Crimean Tatar integration.²⁵⁵ Seeing that the real points of dispute had been narrowed down as a result of direct contact between representatives of the two parliaments, the HCNM decided once more to apply the formula of a 'quiet' round table, where he hoped to urge the parties to make a deal on the remaining differences. Consequently, he convened a meeting in the Dutch town of Noordwijk on 14-17 March. Relevant members of the Ukrainian parliament and government, the president's representative in the ARC, and leading parliamentarians and governmental officials of the autonomy were invited to participate. To facilitate the consideration of specific legal and economic questions, the High Commissioner brought in four independent experts as observers, one of whom had been a member of the earlier team.²⁵⁶ As in the case of Locarno, the round table appeared to be convened at a time of increased tensions in the relations between Kyiv and Simferopol. And once again, the instrument used by the HCNM enabled the prevention of an escalation of the conflict.

The first day of talks was devoted to the economic situation and the powers of the autonomy. On the second day, the participants discussed the political and legal aspects of the Crimean problem.

²⁵² Holos Ukrainy, 12 March 1996, p. 1; Pysarenko 1996, p. 2.

²⁵³ Krymaskaia pravda, 15 March 1996, p. 1; Chernaia 1996a.

²⁵⁴ Letter by van der Stoep to Udovenko, 19 March 1996.

²⁵⁵ OSCE Newsletter, 1/96, pp. 12f; Holos Ukrainy, 26 January 1996, p. 2; 27 January 1996, p. 1.

²⁵⁶ Packer 1998, p. 310.

According to the autonomy's Deputy Prime Minister Ihor (Igor) Ivanchenko, the discussions in Noordwijk were more constructive and well-disposed than those in Locarno. The participants not only presented their views, but tried to find some shared ground. Tsekov, who was invited as head of the Republican Party faction, pointed to a more consolidated position of the Crimean delegation. Chubarov was the only member who did not support the approval of the autonomy's constitution as it had been adopted on 1 November 1995. In the words of the Crimean participants, the discussions resulted in a unanimous conclusion that the autonomy should be given more powers in the economic field and that its constitution had to be adopted as soon as possible. According to Danelian, the majority of participants agreed upon the following procedure: the Verkhovna Rada would pass a resolution or a law on approving the Crimean constitution. This would include the instruction to a special working group to further work over a number of articles still in dispute. In their comments, the Crimean representatives stressed the important role that the OSCE played in supporting the approval of the constitution as soon as possible. It is worth mentioning that the OSCE's "experts" were still referred to as a consolidated actor, with no special attention paid to the HCNM. Although the Crimean representatives did not expect the Noordwijk meeting to result in "a revolution" in relations between Simferopol and Kyiv, they believed the latter would pay some attention to the OSCE's recommendations.²⁵⁷

As he had done in the previous year, van der Stoel issued the first batch of his proposals immediately after the end of the meeting in Noordwijk. In his letter of 19 March, he argued that the discussion about the text of the Crimean constitution had given him the impression that although differences remained between the parties on a number of articles, consensus had been reached on a number of others. Referring to proposals expressed at the round table, the HCNM presented four operational recommendations that were intended to "register the considerable progress which has been made in the solution of the constitutional differences and (...) provide an important stimulus for renewed efforts to solve the remaining differences in the near future". The most important step was to be the immediate implementation of those articles that had already been agreed upon. In order to strengthen the encouraging effect for the Crimean deputies, the High Commissioner proposed to call this an approval of the constitution "with the exception on those articles which are still in dispute".²⁵⁸ At the same time, van der Stoel suggested that editorial changes demanded by Stretovych's commission, including switching to the autonomy's name favoured by the centre and eliminating references to its 'people' and 'citizens', would be made by the Ukrainian parliament, rather than being imposed on the Crimean one. In doing so, he admitted the possibility of changing the text during its approval and thus, in effect, took Kyiv's side in the controversy over the mode of approval. More importantly, this position showed his preference for a political result, making the text acceptable for the centre and allowing peninsular 'statists' to save political face, over legal procedure. The third recommendation clearly supported Simferopol's insistence on the soonest possible cancelling of the infringing Ukrainian law on the ARC. Moreover, the Verkhovna Rada was to accept a priority of the autonomy's constitution over a national law. Finally, although the High Commissioner's call for speeding up the solution of the remaining differences was addressed to both parties, it also meant supporting the argument of the Crimean parliamentarians that their constitution had to be approved without regard for the adoption of the Ukrainian constitution.

The ability of the Ukrainian parliament to follow this recipe, running counter to an approach favoured by many of its members, was tested as early as the following day, when it started considering the autonomy's constitution.²⁵⁹ Two key actors in the consideration who had participated in the round table favoured rather different approaches to the problem in general, and to the Noordwijk recommendations in particular. Stretovych, who presented the question to the session, held a much tougher view of dealing with the text that had been adopted by the Crimean Soviet than the views expressed by the leading Ukrainian parliamentarians and governmental officials ever since the constitution of May 1992 had been annulled. On behalf of his commission, Stretovych recommended that the Verkhovna Rada approve only 14 out of the document's 136 articles. The other articles had to be further reviewed by

²⁵⁷ Volodin 1996c.

²⁵⁸ Letter by van der Stoel to Udovenko, 19 March 1996.

²⁵⁹ Although the HCNM's letter had probably not yet been distributed among the MPs, several key actors of the parliament's considerations had participated in the Noordwijk round table and undoubtedly informed the leadership of the Verkhovna Rada of its proposals.

the relevant commissions, together with representatives of the Crimean parliament. A part that was to be rejected included not only articles running counter to the current Ukrainian constitution and the law on the ARC, but also those norms which Stretovych believed had to be first defined in the new constitution of Ukraine, and then copied into that of the autonomy. Moreover, he proposed to pass a resolution declaring the approval of the articles that were acceptable for Kyiv, rather than passing a law on their coming into force, as the HCNM had recommended.²⁶⁰ In spite of Supruniuk's warning about the destabilising impact of such a move on the situation in Crimea, Moroz expressed his support for these proposals.²⁶¹

On the following day, however, Karmazin presented, on behalf of the ad hoc commission on the Crimean problem, quite a different approach, which fully adhered to the formula that had been suggested by the HCNM. It is true that he did not propose to approve the Crimean text in full, and the articles which he found unacceptable were not only those clearly running counter to the Ukrainian constitution and laws, which had been rejected by Kyiv all along the way. In Karmazin's view, many provisions copied from the demarcation law also transcended the autonomy's powers as defined by the Ukrainian legislation, including the constitutional treaty of June 1995.²⁶² Moreover, the delineation of powers between the centre and the autonomy was being questioned even on the level of whether Simferopol should be granted the right to appeal to Ukraine's Constitutional Court, as well as the right to suspend, pending the court's decision, those Kyiv acts that were held to be intruding on the autonomy's competence. These rights were provided for in both the demarcation law and the one on the ARC, and the authors of the Locarno Paper favoured their retaining.²⁶³ However, contrary to the commission on legal policy, the ad hoc commission recommended approving the body of the constitution, except for 20 articles that it believed ran counter to Ukrainian legislation. It also urged that the above-mentioned 'editorial changes' be made throughout the text. Moreover, its view of approving meant ratification. In other words, the approved articles would immediately come into force and even have priority over the law on the ARC. As for those articles which would not be approved at this point, Karmazin proposed to stipulate in a concomitant resolution that the Crimean parliament revise them within a month, and that the Ukrainian parliament consider within ten days thereafter.²⁶⁴

This proposal was supported by Supruniuk, who saw it as a compromise's solution, given that the Crimeans were not in the position to get more. Ukrainian MPs from the peninsula preferred this solution as well.²⁶⁵ At the same time, nearly a quarter of deputies were prepared to support the proposal of nationalists to postpone the consideration of the autonomy's constitution until the national one was adopted,²⁶⁶ and an even greater number favoured the approach set forth by Stretovych. However, the vote showed preference for the ad hoc commission's draft. Once again, the conciliatory choice was probably not only the result of Crimea's negative reaction to a tough option, but was also caused by opposition to the president's intention to extend his powers, through the new constitution, at the cost of legislature and the regions. Moreover, the text which was passed in the first reading did not contain the point about 'editorial changes'. The Verkhovna Rada preferred to get those changes made in Simferopol before the second reading, which was initially scheduled for the following week.²⁶⁷

The Crimean deputies, however, reacted in the opposite way. It is true that on the day following the vote in the Verkhovna Rada, Supruniuk qualified it as both a demonstration of trust in the autonomy's

²⁶⁰ P'iata sesiiia VRU, Bulletin No. 40, pp. 8-13.

²⁶¹ Ibid., pp. 31, 33.

²⁶² Those provisions stipulated, in particular, the autonomy's rights to conduct its own financial and taxation policies, to establish independent foreign relations, and to give its consent to movements of the Ukrainian troops on the peninsula. Also unacceptable for the commission were provisions on the Crimean parliament's powers with regard to the autonomy's prime minister and heads of the law enforcement bodies and local judges. This was because Kyiv viewed all of them as parts of an all-Ukrainian power system. Ibid., Bulletin No. 41, Pt. 1, pp. 7ff.

²⁶³ The commission also objected to a number of articles stipulating the rights of the Crimean citizens, and thus discriminating, as Karmazin argued, against other citizens of Ukraine, which were, in effect, denied the same rights. For this reason, three articles declaring the Crimean citizen's rights in the fields of health care, education and pensioning were also excluded from those being approved during the second reading.

²⁶⁴ P'iata sesiiia VRU, Bulletin No. 40, pp. 12ff.

²⁶⁵ Ibid., pp. 37f, 17f, 30f.

²⁶⁶ Ibid., pp. 32f, 36.

²⁶⁷ Ibid., pp. 38-44; Chernaiia 1996b.

parliament and as the "first big compromise in the relations between Kyiv and Simferopol".²⁶⁸ However, a few days later the session issued a statement with a very negative view of the approval law that had been passed in the first reading. Probably in an attempt to put pressure on Kyiv and/or Moscow, the Supreme Soviet appealed on 27 March to the Council of Europe, the OSCE, as well as to the presidents and parliaments of Russia and Ukraine. The appeal read that, as a result of Kyiv's actions, "Crimea no longer possessed any features of sovereignty", and that the current system of governing the peninsula could be called "colonial". The presidents of Russia and Ukraine were therefore requested to include, in a bilateral treaty, "conditions guaranteeing restoration and existence of a true autonomy in the Republic of Crimea".²⁶⁹ On 3 April, the Soviet went a step further, placing the question on lifting the moratorium on referendums on the agenda. Supruniuk explained that the only demand of the Crimean parliamentarians was the ratification of the constitution, and that they would not stop considering the question of the moratorium until this demand was met.²⁷⁰

On the same day, the HCNM arrived in Kyiv. He discussed with relevant actors the procedure and scope of approving the law on the eve of the second reading, and urged them to follow the pattern which had been supported two weeks previously.²⁷¹ After the meeting with him, Moroz on the following day supported the draft of the ad hoc commission, rather than that of Stretovych, which he had favoured on 21 March. He referred to the High Commissioner's appreciation of this option as corresponding to the legal nature of a unitary state and the standards of European democratic countries. Although the commission on the legal policy still insisted on waiting for the Crimean parliament to meet the demands of the Verkhovna Rada, a majority of deputies voted to adopt Karmazin's draft.²⁷² However, a concomitant resolution stipulated that the approved text was being put into force with the exception of the above-mentioned terms which needed 'editorial changes'. It was recommended that the autonomy's parliament make those changes, revise the rejected articles and submit the draft within a month for renewed consideration in Kyiv.²⁷³ Again, Supruniuk welcomed the adopted law, arguing that it was especially important in view of the attempt to demote the status of Crimea in the draft of the Ukrainian constitution. This law had, in effect, confirmed the current status of the autonomy.²⁷⁴ As for the parts which had not been put into force, he believed that it would be easy to amend such articles as the one on symbols. However, the "fundamental principles", in particular property rights of natural resources, double subordination of the law enforcement bodies and the procedure of appointing of the autonomy's prime minister, could only be revised on the basis of a compromise between Kyiv and Simferopol.²⁷⁵

2.10 The High Commissioner's Recommendations of 5 April 1996

A similar view was held by the HCNM, who on 5 April sent another letter to Udovenko with a number of substantial recommendations on specific points of the Crimean constitution. They had been drafted after his consultations with the four experts who were present in Noordwijk. He divided the remaining differences between Kyiv and Simferopol into two groups, "those related to economic and financial competencies, and those which are of a more general political nature". Regarding the first group, the High Commissioner expressed only some rather general suggestions. He proceeded from his unchanged impression that it might be easier to resolve the differences (on the constitutional provisions) "if on a number of underlying economic and financial issues agreement could be reached between Ukraine and the ARC".²⁷⁶ He considered a presidential decree of 15 March which prolonged for 1996 the rule that all taxes collected on the peninsula were to be directed into the Crimean budget (the so-

²⁶⁸ Volodin 1996d.

²⁶⁹ Krymskaia pravda, 29 March 1996, p. 1.

²⁷⁰ Ibid., 4 April 1996, p. 1; 5 April 1996, p. 1.

²⁷¹ OSCE Newsletter, 4/1996, p. 5; Holos Ukrainy, 5 April 1996, p. 1.

²⁷² Tuhluk 1996; Holos Ukrainy, 9 April 1996, p. 5.

²⁷³ See: Zakon pro Konstytutsiiu ARK 1996; Postanova Verkhovnoi Rady Ukrainy, 4 April 1996.

²⁷⁴ When the approval law came into force, Danelian pointed to the fact that one of the approved articles forbade the change of the scope of the autonomy's powers without the consent of its parliament. Soon, however, he saw that this limitation could not prevent the Ukrainian MPs from infringing upon those powers whilst elaborating a draft of the new national constitution. Volodin 1996e, p. 3; Riabchikova 1996b.

²⁷⁵ Shakhniuk 1996, p. 3.

²⁷⁶ Letter by van der Stoep to Udovenko, 5 April 1996.

called one channel budget system) and a provision of the law on the ARC which stipulated the autonomy's right to set up free economic zones to be important steps towards such an agreement. Moreover, he believed that Kyiv might agree with Simferopol's desire to have a permanent arrangement regarding the one-channel system, "if simultaneously agreement could be reached on the supervision of the system and on the manner of assuring respect for the unified tax system of Ukraine".²⁷⁷ Van der Stoel also repeated his recommendation on ensuring that "an equitable share of the revenues" of the peninsula's natural resources, though owned by Ukraine, be used for the benefit of the autonomy. This time, he specified "revenues from the future exploitation of oil and gas deposits in the part of the continental shelf surrounding Crimea", which were probably believed by the peninsular elites to be very profitable.²⁷⁸

In contrast, the recommendations on the second group of articles were highly specific. The HCNM very carefully considered the articles which had been rejected by the Verkhovna Rada. He pointed to a number of contradictions between the different articles, and suggested a pattern of reconciliation. Alas, in all cases these suggestions were to the autonomy's detriment. Firstly, the contradictions inherited from the demarcation law were revealed, particularly those connected with the overlap between the exclusive competence of the centre and the powers of the autonomy. It should be recalled that this problem had already been dealt with in his letter of October 1995. Defence, armed forces, security and the state of emergency were listed among matters that belonged to the exclusive competence of Ukraine. Thus, the High Commissioner deemed it necessary to delete, first, references to the rights of the Crimean parliament (or its head or presidium) to give consent to the dislocation of Ukraine's National Guards, and to appoint/release the commander of their subdivision on the peninsula, as well as the chief of the Security Service's department. Second, the HCNM saw it as necessary to delete references to the powers of the Supreme Soviet related to supervising the activities of that department and, in general, taking measures "aimed at ensuring state and public security" in the autonomy, as well as to initiating a state of emergency on its territory.²⁷⁹ It is true that the HCNM recommended that Kyiv "declare its willingness to consult with the appropriate authorities of the ARC" regarding matters of defence and security, and that it inform those authorities on envisaged steps which were of relevance to the autonomy.²⁸⁰ However, such a declaration could hardly have a legally binding nature. It would be no more than a commitment of the centre to consult the autonomy before concluding international treaties of relevance for Crimea, a suggestion van der Stoel made in October 1995.

Two further recommendations were related to contradictions between provisions in the Crimean constitution and the Ukrainian legislation. These contradictions reflected the narrowing by the centre of the scope of the autonomy's competence in comparison with the scope that had been introduced by the demarcation law, which the Crimean parliament sought to retain. For an article that provided for the election of local judges by the Supreme Soviet, the High Commissioner pointed to its running counter to the law on the ARC, which stipulated establishing the Crimean courts in accordance with national legislation. As for a provision regarding the appointment of the autonomy's prime minister by the Crimean parliament, the HCNM went as far as suggesting that it be reconciled with a formula which "will be probably included in the new Constitution of Ukraine" (approval of the nomination by the Ukrainian president).²⁸¹ While aimed at removing contradictions between the Crimean draft constitution and Ukrainian legislation, as well as between different articles of the constitution itself, these specific recommendations clearly undermined the demarcation law as a ground for defining the autonomy's powers, as had been suggested by the Locarno Paper. Although more realistic with regard to international patterns of autonomy rights and the current alignment of forces between Kyiv and Simferopol, these recommendations, in effect, supported the Ukrainian authorities in infringing on Crimean powers that had been agreed upon by the parties (even though the agreements were later

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ The latter power was, however, granted in June 1996 by the new Ukrainian constitution and, therefore, retained during all further revisions of the Crimean one.

²⁸⁰ Letter by van der Stoel to Udovenko, 5 April 1996. The HCNM also recommended that the Crimean parliament should not infringe upon Kyiv's exclusive competence in foreign policy, thus limiting its speaker's right to sign international agreements and appoint plenipotentiaries to those matters pertaining to the economy, environmental protection and cultural relations. In this case, however, the recommendation fully corresponded to the demarcation law and the law on the ARC, to which a respective provision of the draft constitution was in contradiction.

²⁸¹ Ibid.

transcended by the peninsular elites themselves). Moreover, the HCNM recommendations deviated from his earlier suggestions, which the autonomy's parliament repeatedly referred to. It is not surprising that this evolution of van der Stoel's approach to the Crimean problem was welcomed in Kyiv and regretted in Simferopol. An exception to the latter was, of course, Tatar politicians, who were striving for more active intervention of Ukrainian authorities in the hope for changes that would favour them.²⁸² The HCNM's readiness to sacrifice previous agreements between the parties for the sake of de-escalating the tensions in a new political context threatened to undermine the long-built confidence of a party that felt betrayed and, therefore, his own role as an effective mediator.

In his conclusion, van der Stoel added an encouraging statement that "important progress has been made recently in narrowing the gap between the positions of Ukraine and the Parliament of the Autonomous Republic of Crimea". He appreciated the partial approval of the Crimean constitution as a demonstration of Kyiv's willingness "to support the concept of autonomy of Crimea within Ukraine", and urged the parties to ensure

that the momentum will not be lost, that determined efforts will be made soon to resolve the remaining differences and that nothing will be done which could lead to a worsening of the atmosphere in which future negotiations will be conducted. In this respect I express the hope that the Crimean Parliament will refrain from organising a referendum or a poll in Crimea on the Constitution as adopted on 1 November 1995, and that the Ukrainian Parliament will not deviate from its aim to provide Crimea with substantial autonomy in those fields which do not belong to the exclusive competence of Ukraine.²⁸³

It was clearly easy for Kyiv to agree with such assessments and suggestions. In his reply to the letter, Udovenko emphasised "constructive and consistent policies" of the Ukrainian authorities with regard to the Crimean problem, and welcomed those recommendations which supported Kyiv's objections against Simferopol's claims to power. The other suggestions were, as usual, claimed to be under the careful analysis of experts.²⁸⁴

2.11 Adoption of the New Ukrainian Constitution and Reactions in Crimea (April - June 1996)

In spite of the High Commissioner's request, the parties made no determined effort to resolve the remaining problems as soon as possible. For some time, the attention of politicians in Simferopol, not to mention those in Kyiv, was distracted from the rejected articles of the Crimean constitution by the controversies over the draft constitution of Ukraine. This was considered the most important document that defined the future of the autonomy. The dispute between the Ukrainian president and parliament over the procedure of adoption and the contents of the new constitution was supplemented by the struggle between the rightist (pro-presidential) and leftist factions inside the Verkhovna Rada. The president and his supporters argued that a referendum should be held over the draft that had been approved by the constitutional commission in March. Through a referendum they hoped to fix the re-distribution of powers in the executive's favour, which had been introduced by the constitutional treaty. Their opponents preferred a referendum only on 'fundamental principles' of the constitution, or the adoption of the document by the Verkhovna Rada in order to revert to domination by the legislature. In any case, they flatly rejected a number of 'nationalist' and 'bourgeois' provisions of the draft that had been elaborated by the working group. These provisions included state language and symbols, legalisation of private property, etc., on which the rightists firmly insisted. The Crimean problem was one of the controversial points. The president's supporters stood for a centralising solution, i.e. defining Ukraine as a unitary state. The leftist opposition objected against further strengthening the executive.²⁸⁵ However, none of the parties considered the issue to be, so far, of primary importance.

²⁸² See also note 190 in this chapter.

²⁸³ Letter by van der Stoel to Udovenko, 5 April 1996.

²⁸⁴ Letter by Udovenko to van der Stoel, [1996]. The letter bears no date.

²⁸⁵ Pogrebinskii 1996, pp. 41ff.

As noted above, Crimean parliamentarians harshly criticised a chapter of the working group's draft which was devoted to the status and powers of the autonomy. Support for the criticisms of both Kuchma and Moroz made it clear that this chapter would undergo considerable changes. Indeed, in a revised text, which was presented in late May by an ad hoc parliamentary commission that had been established to further work over the draft constitution, the respective chapter reverted to the current name of the autonomy, namely the ARC. However, this chapter included a number of provisions that differed from the Crimean constitution that had been put into force by the Ukrainian parliament. It was thus made clear that influential actors in Kyiv did not feel any obligation to respect the powers that had already been granted. As was the case with the working group's draft, the new document made no reference to the very existence of the Crimean constitution, and defined the Verkhovna Rada of the ARC as a representative body, empowered to issue "decisions and resolutions". Contrary to the former draft, the new one listed matters that belonged to the autonomy's competence. However, it lacked the most significant ones.²⁸⁶

It is not surprising that the adoption of the draft by the Verkhovna Rada in the first reading of 4 June urged the Crimean parliamentarians to set forth their own version of the provisions which were of relevance for the autonomy. As a legislative initiative, on 6 June they passed their proposals for the draft constitution of Ukraine. These proposals included a revision of the chapter on the ARC, which largely referred to the constitution of November 1995, as well as remarks on some other controversial articles, e.g. insistence on the two state languages. Again, the resolution threatened with a referendum on "principal provisions of the constitutions of Ukraine and Crimea" if the Verkhovna Rada failed to meet these demands.²⁸⁷ At the same time, the Supreme Soviet on 12 June overwhelmingly rejected all compromise proposals of its constitutional commission on amending those articles of the autonomy's constitution which had not been put into force. This is all the more remarkable because the commission proposed to amend only seven articles of 25, most of which concerned symbolic matters rather than those of powers. In no case did it call for full compliance with Kyiv's demands, nor did it follow the HCNM's recommendations.²⁸⁸ It seems that the centrist members of the Crimean parliament preferred to retain the option to stick to the autonomy's constitution of November 1995, in the likely case that their efforts would fail. At the same time, they tried to persuade key actors in the capital to take into account Simferopol's proposals to the Ukrainian constitution. For this purpose, Supruniuk and Danelian went to Kyiv several times in June. As for the pro-Russian deputies, they overtly stated their hope that the draft constitution of Ukraine would be placed under referendum. It would almost certainly be rejected by the peninsula's residents, thus justifying the Supreme Soviet's refusal to admit its legitimacy for Crimea and its insistence on the validity and primacy of its own constitution that could be approved in the same referendum.²⁸⁹

However, the Ukrainian constitution was passed by the Verkhovna Rada. This result was made possible by the same desire to send it to a referendum, which urged Kuchma to issue a decree on that effect on June 26, when the first signs appeared that the parliament was failing to elicit a qualified majority to adopt the controversial provisions. Taking advantage of this seemingly obvious disability, the president put to a referendum the constitutional commission's draft of 11 March, rather than the one that had been approved by the Verkhovna Rada in the first reading, in which the executive's powers had been considerably reduced. The indignant reaction to this move, in addition to the threat of legalisation of the enormous presidential powers, caused an unparalleled consolidation and working capacity of the parliamentarians, and strengthened their willingness to reach a compromise. During a round-the-clock sitting of 27 and 28 June, the draft was approved in the second reading, which was followed immediately by approval in the third reading. Kuchma was thus forced to face a *fait accompli*. However, compromise solutions on some controversial matters only became possible when voted in 'packets', with each of the parties (leftists vs. rightists, or Russophones vs. Ukrainophones) winning in one and losing in the other.²⁹⁰ Moreover, a decision was made to give up roll-call votes on these packets to allow the deputies to save political face. Thus, the provision that the ARC had to have its constitution

²⁸⁶ Proekt Konstytutsiii Ukrainy 1996b, pp. 9-10.

²⁸⁷ Postanovlenie Verkhovnogo Soveta Kryma, 18 June 1996.

²⁸⁸ Khronika 1996b, p. 177.

²⁸⁹ Riabchikova 1996b.

²⁹⁰ Pogrebinskii 1996, p. 44ff.

passed by its Verkhovna Rada and approved by Ukraine was finally adopted, even though rightists preferred a charter, and some nationalists even called for the abolishing of the autonomy. This provision was adopted together with an article on state symbols, which most leftist and many Russophone deputies strongly objected to as 'nationalist'. At the last moment, the supporters of the autonomy, most active among whom were the MPs representing the peninsula, succeeded in removing a requirement on a qualified (rather than a simple) majority, which was necessary for the approving of the Crimean constitution in Kyiv. This change would prove to be crucial for an approval in 1998. However, they fell short of getting a provision on the powers of the autonomy's Rada to issue laws.²⁹¹

During the whole period of revising and adopting the draft constitution by the Verkhovna Rada, the HCNM neither intervened via written recommendations on the relevant articles, nor in direct communication with the key actors of the constitutional process. Meanwhile, it was not at all certain that the considerable autonomy, provided for in the ratified part of the Crimean constitution, would not be neglected in the national one.²⁹² Because the High Commissioner did not distinctly stress the inadmissibility of reducing Crimea's status, no reference was made to his position, nor to the OSCE in general, in contrast to previous debates on this problem.²⁹³ Such a reference may have influenced those rightist deputies who were not strongly opposed to the very existence of the autonomy.

In any case, the Crimean leadership was quite satisfied with what they managed to fix in the constitution of Ukraine. While the pro-Russian factions denounced it as "completely ignoring the interests of a majority of Crimeans", and demanded its consideration on the session of the Supreme Soviet and putting it to a peninsular referendum,²⁹⁴ Supruniuk called the constitution a "step toward stabilisation". He expressed his gratitude to the Ukrainian leadership for having taken into account Simferopol's requests. In his view, the chapter on the ARC included all the provisions which the Crimean representatives had insisted on. After reference to the autonomy's constitution had been made in the national one, the Supreme Soviet had to amend the rejected articles.²⁹⁵

2.12 Amending the Crimean constitution in late 1996 and 1997

During the following year, however, the Crimean deputies' attention was distracted from the autonomy's constitution even more than before. This time the cause was the struggle for power inside the parliament and its conflicts with the government. The pro-Russian forces, which now used the slogan of combating flooding criminality and corruption and were surprisingly supported by the Kurultai faction, succeeded in early October in dismissing Supruniuk and the Presidium. However, the newly elected speaker, Vasyl' Kyseliov (Vasilii Kiselev), was prompt to assure Kyiv of his loyalty, and excluded any possibility of separatist revival inside the Supreme Soviet.²⁹⁶

At first, the leadership change did not seem to hinder the process of amending the constitutional articles. An ad hoc commission of the Supreme Soviet was established for this purpose in early October, and the special parliamentary readings on the Crimean constitution and relevant chapters of the Ukrainian one were held on 24 October. In his presentation, Yuriy Podkopayev, deputy speaker and the first head of the commission, set forth proposals on how to deal with the new legal reality that had been created by the Ukrainian Constitution. In spite of its provision that all legislative acts were valid only so long as they did not contradict the Constitution, he insisted on retaining those powers of the ARC which had been provided for by earlier Ukrainian laws. As for amending the rejected articles of

²⁹¹ P'iata sesiiia VRU, Bulletin No. 107, pt. IV, pp. 73-84; pt. VI, pp. 19-47.

²⁹² Not only did the draft, which envisaged an autonomy under a charter adopted in Kyiv, have high chances to be approved in a referendum, the deal negotiated in parliament during 'the constitutional night' of 27 and 28 June could also have appeared less fortunate for the Crimean elites, given that the rightists were less interested in preventing the referendum than their opponents, hence less inclined to make concessions.

²⁹³ During a meeting with van der Stoep in late August, however, Moroz reportedly stated that provisions elaborated during earlier contacts with the High Commissioner were used as arguments in the constitutional debates. He therefore stated that the chapter on the ARC reflected the results of the co-operation between the Ukrainian authorities and the HCNM. Holos Ukrainy, 29 August 1996, p. 1.

²⁹⁴ Zaiavlenie deputatskoi gruppy "Respublika" 1996 (quote); see also: Obrashchenie fraktsii RPK 1996.

²⁹⁵ Holos Ukrainy, 3 July 1996, p. 1 (quote); see also: Volodin 1996f, p. 3.

²⁹⁶ Dorogan' 1996. Two of the three newly elected deputy heads were members of the former Russia bloc, while Chubarov retained his post.

the Crimean constitution, Podkopaev proposed a compromise formulae for symbolic matters, but hoped for Kyiv's agreement to Simferopol's position with regard to principal economic issues.²⁹⁷

In mid-November, Volodymyr (Vladimir) Klychnikov, who had assumed by then the post of the commission's head, announced after a new round of negotiations with a working group of the Verkhovna Rada that the Crimean constitution had been "virtually agreed upon". While speaking of "mutual compromises" made by the parties, he nevertheless stated that "virtually all the Crimeans' proposals had been accepted" by the Ukrainian parliamentarians. This clearly pointed to more perceptible concessions on the part of the latter.²⁹⁸ According to Klychnikov, compromises with regard to the traditionally controversial problems of citizenship, symbols or property rights of natural resources had been found by reformulating the respective articles in a "somewhat different language". Reformulation had allegedly made the retaining of these symbolic assets or powers by the autonomy less painful for the centre.²⁹⁹ At the same time, in his presentation to the session on 20 November, he admitted that what had been negotiated in Kyiv were not only the formerly rejected articles, but the constitution in full. Another member of the Crimean delegation overtly expressed his concern over the fact that the Ukrainian MPs wanted to revise already approved articles.³⁰⁰

On 5 December, the ad hoc commission's proposals to the rejected articles were passed by the Supreme Soviet in the first reading, though only by a very thin majority.³⁰¹ Two weeks later, at a meeting with the HCNM, Kyseliov said that only two articles had so far not been agreed upon. He, however, complained of Kyiv's delay with the completion of the process, and argued that it was striving for a further reduction of the autonomy's powers.³⁰² The main problem, however, appeared to be the internal controversies in the Crimean parliament. When the law on amendments to the constitution was considered in the second reading in mid-January 1997, it was not even supported by a simple majority of votes, much less a qualified one, which was required for decisions on constitutional matters.³⁰³ Although Kyseliov hoped for the adoption of the law in the next sitting, the deputies' attention was by then once again distracted by the struggle for power. In late January, the Supreme Soviet voted for the dismissal of the Demydenko government, which was suspended by Kuchma, pending a decision by the Constitutional Court. On 5 February, Kyseliov, who had tried to hinder the ousting of Demydenko, and the Presidium followed. With speaker Anatolii Hrytsenko (Gritsenko), a new coalition came to power, consisting of the centrist deputies and one of the pro-Russian factions, which were again supported by the Kurultai. The following three-month period of unprecedented confrontation between the new winners and losers, marked by a steady lack of quorum, scuffles inside the parliament and the beating of deputies outside, including even an attempt of the Presidium to strip mandates from several opposition aggressors, nearly led to the dissolution of the Soviet.³⁰⁴ Having retained their domination, the winners finally succeeded in ousting Demydenko in early June, and in re-appointing Franchuk as head of the government. Consequently, the confrontation calmed down. At the same time, during Yeltsin's visit to Kyiv in late May, the long-awaited conclusion of the friendship treaty between Ukraine and Russia took place. The treaty included an unequivocal provision on the parties' respect for each other's territorial integrity. Moreover, final agreements were made on the fleet division. The hopes of the Crimean elites for Moscow's help in their striving for the powers of the autonomy were thus doomed to failure, making it more difficult for them to resist Kyiv's pressure.³⁰⁵

It was at this time that the Supreme Soviet finally adopted, on 19 June, the long-awaited amendments to the autonomy's constitution and presented them for the approval by the Verkhovna Rada. Alongside 'editorial changes' in some of the terms used throughout the text, the articles that were rejected in April 1996 were also amended, as well as a number of those which had been approved. The autonomy was now called the ARC, and the terms that the Ukrainian parliament had found unacceptable were mostly

²⁹⁷ Podkopaev 1996.

²⁹⁸ Krymskaia pravda, 16 November 1996, p. 1.

²⁹⁹ Chevel'cha 1996.

³⁰⁰ Krymskie izvestiia, 21 November 1996, p. 1.

³⁰¹ Ibid., 6 December 1996, p. 1; Riabchikova 1996c.

³⁰² Kotenev 1996.

³⁰³ Riabchikova 1997.

³⁰⁴ Khronika 1997a; Beletskii 1997a, pp. 15f.

³⁰⁵ See also: Beletskii 1997b, pp. 8f, 17f.

replaced with somewhat artificial euphemisms.³⁰⁶ The Crimean citizenship was reduced to mere residence, and a reference to the Crimeans' right to have double citizenship was deleted. The High Commissioner's recommendations of April 1996 were also taken into account in a number of provisions. References were no longer made to the Supreme Soviet's right to consent to the appointment of the National Guards' commander or to elect local judges. The speaker was stripped of his powers to sign international agreements and appoint plenipotentiaries, and the appointment and dismissal of the prime minister now required the Ukrainian president's consent. The latter change had already been fixed in an amended version of the law on the government, adopted in early February. Also, the powers of the Supreme Soviet's head to consent to the appointment of the chief of the Crimean department of the Security Service and to the dislocation of military troops on the peninsula were reduced to a non-imperative "taking part in the decision" on respective matters.³⁰⁷

However, the adopted amendments resulted in neither bringing the Crimean constitution into line with Ukraine's, nor in full implementation of the HCNM's recommendations. It is true that the amended articles came to resemble the Ukrainian legislation, in particular, due to abounding references made to it throughout the text. However, they largely reserved the same powers of the Crimean authorities expressed in a 'somewhat different language', thus clearly contradicting the centralising spirit of Kyiv's policy toward Crimea, which was reflected in the national Constitution and in recent laws. In particular, although the peninsula's natural resources were no longer declared the property of 'the people of Crimea', the ARC, represented by its Supreme Soviet, remained the holder of the property right to these resources.³⁰⁸ Although the Supreme Soviet was declared a representative, rather than a legislative body, the amended text provided for its right to issue laws, instead of just decisions and resolutions. It also allowed for legislative initiative of other power institutions. The Soviet was also to retain the right to appeal to the Constitutional Court of Ukraine, concerning those acts of the central authorities that were held to infringe on the autonomy's powers. It was even allowed to suspend the acts pending the court's decision.³⁰⁹ Not only did the document insist on the autonomy's right to direct into its budget all taxes collected on its territory, but also stipulated that budgetary relations between Kyiv and Simferopol should be based on agreements. One of the amendments also declared it the right of the ARC, "taking into account local peculiarities", to decide on all the matters which were not stipulated by the Ukrainian constitution as belonging to the exclusive competence of the central authorities.³¹⁰ Moreover, contrary to the High Commissioner's recommendations, the Soviet was to retain the right to initiate, and even give its consent to, the introduction of a state of emergency. The right to "co-ordinate" the activities of the law enforcement bodies regarding the matters of public order and security, was transferred to the autonomy's government.³¹¹ Finally, the Crimean deputies refused to make any concessions on the status of languages and the status of Sevastopol.³¹²

A predictable, negative reaction of the Ukrainian parliament to these reserved amendments was exacerbated by a number of further assertive moves by the Crimean Soviet during the second half of 1997. In particular, two resolutions on the status of the Russian language were adopted in July and October respectively, declaring it the only official language in the autonomy, and demanding that it be a state language in the whole of Ukraine.³¹³ However, the main controversy between Kyiv and Simferopol that hindered the approval of the Crimean constitution was at that time connected with a draft law on the Verkhovna Rada of the ARC, presented by President Kuchma in mid-June for the Ukrainian parliament's consideration. The draft envisaged non-permanent work of deputies, with the exception of the leadership, and stripping them of their immunity. The autonomy's representative body was also to have more limited powers with regard to the executive. The Crimean deputies appealed to the president to recall the draft and adopted their own version of the law, which provided for much broader

³⁰⁶ 'People of Crimea' was replaced by 'the Crimeans', 'citizens of the Republic of Crimea' by 'citizens in the ARC' or, in cases referring to civil rights, by 'everybody' or 'every person'. *Zakon ob izmeneniakh v Konstitutsiiu ARK 1997*, pp. 656ff.

³⁰⁷ *Ibid.*, pp. 662ff (quote on p. 663).

³⁰⁸ *Ibid.*, p. 659.

³⁰⁹ *Ibid.*, p. 661.

³¹⁰ *Ibid.*, p. 660.

³¹¹ *Ibid.*, pp. 662, 664 (quote).

³¹² *Ibid.*, pp. 656f.

³¹³ For the texts, see: *Sobranie zakonodatel'stva Respubliki Krym*, 8/1997, pp. 983-984; 10/1997, p. 1222.

powers.³¹⁴ Moreover, the Supreme Soviet wanted Kyiv to first approve the autonomy's constitution and then pass the law in accordance with it.³¹⁵ The centre, however, preferred to base the laws regarding the Crimean power bodies on the respective provisions of the national Constitution. Although the draft on the Verkhovna Rada of the ARC caused a controversy between the Ukrainian parliament and president, it was finally adopted in February 1998 in a version similar to the one the president had insisted on.³¹⁶

As for the constitutional amendments described above, they were considered by the Ukrainian parliament on 10 December 1997, after the commission headed by Stretovych failed to succeed in pressuring the Crimean Soviet to further revise the constitution. In his presentation, Stretovych pointed to the most significant of the above-mentioned claims for the autonomy's powers which were not stipulated in the Ukrainian Constitution. In order to make the Crimean deputies finally remove the remaining contradictions, he proposed to suspend the law on the partial approval of the autonomy's constitution, pending the adoption of the respective amendments.³¹⁷ However, many of his colleagues, including Moroz, argued that such a move would destabilise the situation on the peninsula. Nor did they want to put forth another batch of articles that were held to be in line with the Ukrainian Constitution, as the Crimean speaker had suggested. Therefore, the Verkhovna Rada adopted a resolution recommending the autonomy's parliament to submit the constitution "as a single, integral document" by the end of December.³¹⁸ As usual, the deadline was not met. Afterwards, the situation in Crimea was destabilised as a result of Kuchma's decree of 30 January 1998, which provided for the dismissal of the popularly elected mayor of Yalta, replacing him with a presidential appointee. This move was perceived on the peninsula not only as a blatant violation of the local self-government's rights, but also as Kuchma's support for his relative Franchuk in his confrontation with the city authorities. The Supreme Soviet reacted on 5 February with an appeal to the Constitutional Court, as well as with addresses to the Ukrainian parliament and the Council of Europe. In their indignation, the deputies went as far as putting on the agenda the question of holding a referendum on the constitution of May 1992, and on declaring Crimea a Russian national autonomy.³¹⁹ Although this emotional move had no development, the dominant mood in the Supreme Soviet predetermined its reply to the Ukrainian parliament's address regarding the autonomy's constitution. A resolution passed on the same day provided that the same text of 19 June 1997 be submitted to Kyiv "as an integral document".³²⁰

2.13 Approval of a New Crimean Constitution in late 1998, and its Aftermath

It was not until the election of the new Crimean parliament in March 1998 that the amending and approving of the constitution could be completed. The replacement of the militant adherents of the 'Russian idea', who were left with just a few seats, with two rather pragmatic large groups of communists and businessmen/managers, led to a compromise between these groups. This was evidenced by the election of their respective leaders to the posts of parliamentary speaker (Leonid Hrach) and prime minister (Serhii (Sergei) Kunitsyn). One main result of the compromise appeared to be the consolidated effort to assert the powers of the Crimean elites, primarily by fixing their position in the autonomy's constitution.

On 21 October, a draft of the constitution was passed by an overwhelming majority of peninsular deputies. The constitution reflected the pragmatic priorities of the new Crimean leadership, in particular Hrach's, whose name became heavily associated with the document. The new leaders preferred to adopt a new text to meet Kyiv's demands that the constitution be an integral document, in line with the national Constitution, rather than to amend an overwhelming majority of articles in the text of November 1995, which had been invalidated in June 1996. Accordingly, the newly elected deputies refused to struggle for symbolic assets, such as separate citizenship or the legislative status of the Rada

³¹⁴ Khomenko/Pysarenko 1997; Beletskii 1997b, p. 18.

³¹⁵ Krymskaia pravda, 12 December 1997, p. 1.

³¹⁶ Beletskii 1998, pp. 16f; Zakon pro VR ARK 1998.

³¹⁷ Vos'ma sesiia VRU, Bulletin No. 66, [Kyiv] 1997, pp. 17ff.

³¹⁸ Postanova Verkhovnoi Rady Ukrainy, 10 December 1997.

³¹⁹ Beletskii 1998, pp. 17f.

³²⁰ For the text, see: Sobranie zakonodatel'stva Respubliki Krym, 2/1998, p. 228.

(or even its Russian name, the Soviet). Nor did they insist on matters of strategic importance for the Ukrainian authorities, such as the status of Sevastopol or the autonomy's powers with regard to appointing security officials and the deployment of troops. Moreover, they even recognised the formal priority of the state language, Ukrainian, on the peninsula and demoted Russian to the status of a "language of a majority of the population and one acceptable for inter-nationality communication", although with the same scope of rights as Ukrainian.³²¹ This priority was clearly intended to facilitate the approval of the constitution by the Ukrainian parliament. The Crimean elite no longer feared strict implementation of the law in the actual use of languages. They could be quite certain that no threat to the domination of Russian on the peninsula would arise from this amendment. However, Hrach and his supporters were severely criticised by the pro-Russian forces for their 'betrayal' of the language and statehood.³²²

In contrast, the document insisted on rather broad powers for the autonomy in fields where they meant the powers of the Crimean elites and authorities and where they would probably be taken into account in future political practices to a much larger degree. An article describing the competence of the ARC supplemented the scope defined by the Ukrainian Constitution with a number of provisions from the demarcation law, a part of which had been introduced in the law on the Crimean Verkhovna Rada. In particular, the autonomy, represented by its power bodies, was to take part in the formulation and implementation of Ukraine's internal and foreign policies. It was also to conduct its own foreign economic activities and hold the property rights to the natural resources of the peninsula, with the exception of those that were national or non-state property. The most important right, however, was to independently form and implement the autonomy's budget, which was based on all national taxes collected on the peninsula and additional regional ones, as well as on full amounts of payments for the exploitation of natural resources.³²³ It should be recalled that the HCNM only called for making an arrangement which intended to ensure that "an equitable portion" of these payments would be used for the benefit of Crimea.³²⁴ Moreover, the Verkhovna Rada acquired the right to give its consent to the appointment of heads of the law enforcement bodies, with the exception of the security service, as well as to dismiss the autonomy's prime minister by a qualified majority of votes, without asking for the consent of the Ukrainian president.³²⁵ Even more impressive were the newly acquired powers of the Rada's head to give his consent to a number of appointments and dismissals, including deputy heads of the interior and justice departments, as well as top officials of the regional taxation administration, customs, and property fund.³²⁶ These provisions were qualified by observers as leading to considerable consolidation of Hrach's personal power in Crimea.³²⁷

Despite all the above-mentioned efforts to stress that the autonomy belonged to the legal sphere of Ukraine, the approval of the new constitution by the national parliament was not unproblematic. On the legal level, the document contradicted the Ukrainian Constitution and laws on more than 50 points, as the ministry of justice concluded.³²⁸ On the political level, the pro-presidential centrists were highly reluctant to give up the established system of Kyiv's control over the autonomy, primarily by means of determining its budgetary policy. As they were aware of probable destabilising consequences of a blunt rejection of the constitution, they preferred its partial approval, or the amendment of some unacceptable articles by Simferopol prior to the consideration of the text in Kyiv.³²⁹ On 15 December, the constitution fell short of attaining support from the majority of Ukrainian deputies, even though Hrach agreed to make several amendments that were demanded by key actors. The Crimean speaker reacted by accusing pro-presidential factions of attempting to prevent the autonomy's new leadership from combating criminality and corruption. He even threatened to hold a referendum on the constitution. In contrast, his opponents, including Kynitsyn, who was indignant about Hrach's readiness to sacrifice

³²¹ Konstytutsiia Avtonomnoi Respubliky Krym 1998, pp. 2323-2327 (quote on p. 2326).

³²² Semena 1998a, 1998b.

³²³ Konstytutsiia Avtonomnoi Respubliky Krym 1998, pp. 2328-2330.

³²⁴ Letter by van der Stoep to Udovenko, 12 October 1995, p. 805.

³²⁵ *Ibid.*, pp. 2332-2335. If the vote of no confidence was supported by a simple majority, the president's consent was necessary.

³²⁶ *Ibid.*, p. 2336.

³²⁷ It has been argued that the speaker's powers were in fact those of a president, with a much more powerful leverage than Meshkov used to have. Borzenko 1998.

³²⁸ Havryliova 1998.

³²⁹ Borzenko 1998.

the powers of the government in order to preserve his own powers and those of the Rada, accused him of illegally amending the constitution which had been adopted by the Crimean deputies. They threatened to appeal to the Constitutional Court if the constitution were approved.³³⁰

On 23 December, however, the constitution was supported by a thin majority of votes of leftist and other anti-presidential factions, with which Hrach had reportedly had intensive behind-the-scene talks. The approval took place despite the supposed resistance of Kuchma. The most that the centrists managed to do in order to prevent the far-reaching independence of Simferopol vis-à-vis Kyiv was to insert a provision which declared invalid any (current and future) acts of the Crimean representative and executive bodies running counter to Ukrainian legislation (and not just to the Constitution, as the submitted text provided for). In view of the imminent presidential election of autumn 1999, Kuchma preferred to not veto the approved law himself, as this would have further undermined his chances in Crimea.³³¹ After the hope that he would resort to the Constitutional Court to invalidate the entire constitution or provisions thereof faltered, members of the Rukh faction, together with some other Ukrainian parliamentarians, appealed to the Court themselves. However, obviously for political reasons, it has not so far considered the clause.³³²

Meanwhile, the Ukrainian authorities used practical opportunities that were provided for by the amendment on the priority of the national legislation over the Crimean one. For this purpose, they preferred to treat the autonomy's constitution as a part of the latter, even though it is a part of the former to no lesser degree.³³³ Accordingly, a contradiction between a Crimean constitutional provision on a one-channel budget and Ukrainian laws on budgetary and taxation systems was used by Kyiv as a pretext to ignore Simferopol's claims for retaining all peninsular tax revenues in 1999. Therefore, on 15 March 2000, the Crimean Rada had to appeal to the Constitutional Court to resolve the legal controversy. However, a resolution was not passed during the following year. Although the Crimean deputies tried to insist on the autonomy's primacy in the budget for 2001, Hrach relied less on legal decisions than on the political will of President Kuchma.³³⁴ Similarly, a conflict between the heads of the autonomy's representative and executive bodies, resulting in a qualified majority of votes for the dismissal of Kunitsyn, revealed a contradiction between respective provisions of the Crimean and Ukrainian constitutions. The latter did not include a possibility of ousting the autonomy's prime minister without the president's consent. Kuchma was, therefore, able to use the opponents' appeal for his arbitrage in order to strengthen Simferopol's dependence on Kyiv in general, and on himself in particular.³³⁵

2.14 Conclusion

After the recommendations that were based on the talks in Noordwijk, the High Commissioner did not submit any further written suggestions on eliminating the remaining differences between Kyiv and Simferopol.³³⁶ Although van der Stoep continued visiting Ukraine, the problem of the Crimean constitution, which was still prominent in his talks with relevant actors in the capital and on the peninsula in August and December 1996, was not mentioned in the OSCE reports on his following visits to Ukraine in May and November 1997, and May 1998. The focus of his activity, as well as that of the OSCE Mission, shifted to the problems of the Crimean Tatars and interethnic relations in Ukraine, on the peninsula in particular.³³⁷ The above analysis may seem to question the legitimacy of this shift,

³³⁰ Havryliova 1998.

³³¹ Yurchuk 1998. For the text of the amendment, see: Konstytutsiia Avtonomnoi Respubliky Krym 1998, art. 2, pt. 2.

³³² Otchetnyi doklad predsedatel'ia Medzhliisa 1999.

³³³ In contrast to the approval law of April 1996 which had explicitly declared the Crimean constitution to be an integral part of the Ukrainian legislation valid in the entire territory of the state, the law of December 1998 failed to clarify this relationship.

³³⁴ Semena 1999; Kas'ianenko 2000b, 2000d; Prytula 2000.

³³⁵ Budzhurova 1999; Kas'ianenko 2000c.

³³⁶ In his letter of 14 February 1997, which was devoted to the problems of the Crimean Tatars, he mentioned the functioning of languages in the autonomy, which was related, in addition to the conflict concerning the Tatars, to the conflict over the autonomy's powers (see section 3.7).

³³⁷ OSCE Newsletter, 12/1996, p. 13; 5/1997, p. 14; 11/1997, pp. 9-10; Annual Report 1996 on OSCE Activities, pt. II, sec. 3.10; Annual Report 1997 on OSCE Activities, pt. II, sec. 3.11. Among the topics of his meeting with Kuchma on

which was explained in the Mission's report on its activities in 1997 by "the significant lowering of tensions in Crimea"³³⁸. It has been argued that tensions between Kyiv and Simferopol remained apparent at least until spring 1998. However, with the conclusion of the Russian-Ukrainian friendship treaty and the fleet agreements in May 1997, and with the replacement of the separatist Crimean parliament a year later, the threat of a destabilising escalation of tensions hardly existed. Moreover, with the adoption of the new Ukrainian Constitution that included provisions on the Crimean autonomy, there was no longer a real threat of abolishing or even drastically reducing this autonomy. The HCNM probably came to realise that what the parties needed was not mediation in dialogue, or recipes of an agreement, but rather the political will to reach a compromise. This he could hardly facilitate, contrary to more influential institutions, such as the OSCE in general, or the Council of Europe. In any case, in contrast to early 1996, he did not make a determined effort to ensure that the Ukrainian parliament approve the Crimean constitution in late 1998. In particular, he paid no visit to the country during that time. Nor did he choose to welcome the approval in a public statement when it finally occurred, as he had done on many occasions related to developments in other countries, and also once in Ukraine (see section 3.8).

Nevertheless, the eventual agreement between the parties was largely based on the High Commissioner's recommendations. The Crimean Constitution of December 1998 proceeded from the scope of the autonomy's powers provided for by the demarcation law, and tempered it by the centralising provisions of the Ukrainian Constitution. Together with his doubtless contribution to de-escalating the conflict at its two crucial stages in May 1995 and March 1996, this can be seen as clear evidence that the goal of the HCNM's involvement in resolving the Crimean problem has been achieved. Indeed, a number of authors have presented his role in resolving the conflict as a complete success story.³³⁹ Little attention has been paid, however, to the fact that the approval of the constitution, though fixing the substantial autonomy, failed to result in a legal and political arrangement that would guarantee this substance. Unfortunately, no answer has so far been given to a question raised by a Kyiv-based newspaper on the occasion of Simferopol's appeal to the Constitutional Court in March 2000: "[H]as the autonomy (any) rights guaranteed by the law, or is it fully dependent on the central authorities' self-will?"³⁴⁰ Moreover, peace between Kyiv and Simferopol was achieved at the cost of the Crimean Tatars, whose demands, and respective recommendations of the High Commissioner, have largely been ignored.

20 December 1996 were recent acts of the Russian parliament on the status of Sevastopol. The Ukrainian president wanted to get the HCNM's support against what Kyiv qualified as a violation of the OSCE's principle of territorial integrity of the member states. *Uriadovyi kur'ier*, 24 December 1996, p. 1.

³³⁸ Annual Report 1997 on OSCE Activities, pt. II, sec. 2.1.8.

³³⁹ See section 1.6.

³⁴⁰ Kas'ianenko 2000b.

Chapter 3. Integration of the Crimean Tatars

Relations between the Crimean Tatar community and the authorities in Simferopol and Kyiv represented another case which clearly required the High Commissioner's involvement. This problem was essentially ethno-political in nature and had more similarities to those cases he dealt with in other countries than did the above-analysed controversy between the centre and the autonomy (even though the former lacked a clear international dimension).³⁴¹ The sharp contrast between the respective agendas of the returnee minority and the Russian/Russophone majority, the obvious reluctance of the majority regime on the peninsula to take into account the interests of the minority, not to mention the latter's claims to the special status of the indigenous people, as well as Kyiv's failure to secure basic political and social rights for the formerly deported population contributed to a potential for serious conflict. Indeed, on several occasions, the Tatars' attempt to assert their rights turned into violence, resulting in bloody clashes with the authorities. As in the case of the controversy over the status of Crimea, the HCNM got involved only after the conflict became visible. His efforts coincided with the time when increased attention was paid to the returnee problem of the Ukrainian government. This attention was as much spurred on by a newly realised political interest in the Tatar support against the peninsular separatists as by the imperative of conflict resolution.

The HCNM had to pay attention to two major components of the Crimean Tatar problem.³⁴² First, the return, resettlement and integration of the formerly deported people required an enormous amount of capital, which crisis-stricken Ukraine could hardly provide. At the same time, Russia, the main successor state of the former USSR, and the Central Asian states, on whose territory these people mostly resided after the forced deportation, did nothing to help the returnees and even threw obstacles in their way. International assistance was therefore needed both to supplement Kyiv's financial efforts and to pressure the governments of the relevant CIS states. The Ukrainian authorities consistently emphasised the need for such assistance and sought to channel the involvement of the High Commissioner and other international actors in that direction. Second, the effectiveness of spending the available funds, as well as of using the possibilities of the Crimean Tatars themselves, heavily depended on both the willingness of Kyiv and Simferopol to meet them halfway, particularly with regard to their political demands, and on the returnees' ability to influence the authorities' attitude towards their problems. While the autonomy's authorities were strongly opposed to the return and strengthening of the Crimean Tatars, the central government did not want to (further) antagonise the former by favouring the latter. The Kurultai/Mejlis, the virtually uncontested leaders of the Tatar community, succeeded in making both Kyiv and Simferopol take the returnees' interests into account but failed to ensure the priority of those interests. The HCNM's attempt to help them get their most pressing demands met in order to prevent the conflict from escalating was not welcomed by the authorities. Accordingly, it could not be very successful.

³⁴¹ Another factor which may have questioned the legitimacy of the involvement was that a considerable part of the Tatars did not have Ukrainian citizenship. They could thus not be unequivocally treated as a national minority. In particular, the law defined minorities as "groups of Ukrainian citizens, who are not of Ukrainian nationality, [and] show a feeling of national self-awareness and affinity". (Law On National Minorities 1992, art. 3; corrected according to the original.) However, as in the Baltic countries, "the High Commissioner (...) employed a flexible understanding of the concept of minority, addressing the issue from the perspective of politics and the implications of the situations of minorities for security, rather than being hidebound by conceptual delimitations". Cohen 1999, p. 81f.

³⁴² As noted in section 1.2, in addition to the Crimean Tatars, four other ethnic groups residing on the peninsula had been deported (Armenians, Bulgarians, Greeks and Germans). All the returnees were given an equal legal status, and resettlement programmes covered all of the above-mentioned groups. However, the Crimean Tatars constituted a lion share of the returnees (up to 98 per cent), and the mere size of the group made its problem unique in both a financial and political sense. Also, they differed from other minorities in that they are a group indigenous to Crimea (i.e., they lacked an 'ethnic homeland' elsewhere). In any case, the HCNM elected to deal with the Tatar problems in his recommendations (though the Ukrainian government tried to redirect his efforts towards the deportees as a whole; see below). The discussion in this chapter will naturally follow that criterion.

3.1 The Crimean Tatar Problem Prior to the Beginning of the HCNM's Involvement (1992 - April 1994)

Instead of the above-mentioned system of 'dual power' in the autonomy, which the Mejlis envisaged for 'the restoration of rights of the Crimean Tatar people', the Tatars at the beginning of Ukrainian independence had to deal with a power system in which virtually no participation was envisaged for them. They had to search for a means to secure their social and political rights under these unfavourable conditions. As an initial step, the Mejlis demanded the Ukrainian authorities recognize it "as the sole plenipotentiary representative body of the Crimean Tatar people". This step was to be followed by the realisation of programmes of "organised repatriation" and social defence for Crimean Tatars, as well as the creation of the necessary national-cultural infrastructure for the returnees.³⁴³ The Mejlis insisted that all matters related to the 'restoration of rights' had to be decided on with its participation. However, the autonomy's leadership argued that the claim of the Kurultai/Mejlis to 'parallel sovereignty' on the peninsula ruled them out as acceptable negotiating partners for the state agencies. At least on two occasions, the Ukrainian authorities seriously contemplated an outright ban of the two bodies, qualifying them as illegal. This occurred during the attempted coup in August 1991 and after a series of violent Tatar demonstrations in October 1992 (see below). The central authorities, on the other hand, did not wish to use forceful measures against any organisation. They preferred to support the autonomy's relatively moderate leader, Mykola Bahrov, in order to bolster his position against the overtly pro-Russian separatists. They therefore refrained from any move which could have been viewed as support for the Mejlis. This stance was held until Bahrov's defeat in the Crimean presidential election, which forced Kyiv to look for allies against the triumphant separatists.³⁴⁴

The demarcation of powers between the centre and the autonomy agreed upon by the parties in April 1992 contained neither provisions on the Tatars' exclusive rights as the indigenous population, nor obligations of the state to facilitate the restoration of their civil rights, which had been violated as a result of deportation. Although the Mejlis warned that the ratification of this agreement by the Verkhovna Rada would not be recognised by the Crimean Tatars, releasing them "from any moral and political obligations relating to the Ukrainian State",³⁴⁵ the adopted law on the status of the Crimean autonomy did not meet any of their demands. The autonomy's constitution of September 1992, not to mention the overtly separatist one of May, did not meet these demands either. The Ukrainian law on national minorities, while granting all non-titular groups a rather broad scope of ethno-cultural rights, failed to mention any special rights of indigenous or deported peoples. At the same time, separate acts on the matter, elaborated by the government and parliamentary committees, could not be adopted because of opposition from Russophiles and leftists in the Verkhovna Rada.

Kyiv was also reluctant to meet the returnees halfway concerning the acquisition of Ukrainian citizenship. It had automatically been granted to all former Soviet citizens or stateless persons permanently residing on the territory of the new independent state by November 1991, when the citizenship law had come into effect. However, later arrivals required a five-year residence period before becoming eligible. Therefore, a considerable part of the former deportees and their descendants, amounting to approximately 105,000 persons, or more than 40 per cent,³⁴⁶ was denied both the right to vote and access to most welfare benefits, as well as kept outside the privatisation process.³⁴⁷ As the law also failed to grant citizenship to millions of other former residents of Ukraine, who for some reason had been outside its territory and had returned to the independent state, amendments were successively made in January 1993 and October 1994. However, only those returnees who had been sent to other republics of the former USSR to work, serve in the army or study, as well as those who had gone "on legal

³⁴³ Programma vosstanovleniia prav krymskotatarskogo naroda v Ukraine (Vozmozhnyi variant), a document by the Mejlis quoted in: Wilson 1998, pp. 294-295.

³⁴⁴ Wilson 1998, pp. 295, 297. The first attempt to use the Tatars as an ally against the separatists was made by Kyiv after adoption of the Crimean constitution in May 1992. The Mejlis' leadership were invited to a session of the Verkhovna Rada and its head was allowed to deliver a speech. Soon thereafter, the Ukrainian authorities reverted to supporting Bahrov, and the Mejlis felt that it had been cheated. Tyshchenko/Pikhovshek 1999, pp. 62f.

³⁴⁵ UCIPR 1996, p. 9.

³⁴⁶ Brytchenko 1999, pp. 15, 18. The above data relate to deportees of all ethnic origins, but the proportion for the Crimean Tatars was roughly the same.

³⁴⁷ Tyshchenko/Pikhovshek 1999, p. 221; Müller 1999, p. 698.

grounds to permanently live in another country" were recognised the right to automatically acquire citizenship. They also had to pass a short procedure, the so-called determination of possession of Ukrainian citizenship, which required nothing more than the submission of an application and the presentation of evidence of former residence in Ukraine. In contrast, all other persons originating from the country, including deportees, were only allowed to become naturalised citizens by following a simplified procedure. This procedure did not require a five-year residence, but did require not only a declaration of respect for the Ukrainian Constitution and a renouncing of former citizenship, but also the possession of legal sources of existence, which most of the Crimean Tatar returnees lacked, and knowledge of the state language, which almost none of them possessed.³⁴⁸ Calls of the Mejlis' representatives for a broader definition of those eligible for the procedure of determination were rejected.³⁴⁹

It is true that the Ukrainian state made efforts to realise the democratic principles of its policy on nationalities with regard to the rights of former deportees. As early as January 1992, the government issued a decree on measures intended to create conditions for the return of the Crimean Tatars to the peninsula, thus marking Kyiv's taking over of the former responsibilities of Moscow. In accordance with the decree, a national commission for matters concerning Crimea's deported peoples was established. It was empowered to co-ordinate the activities of the centre's and the autonomy's power bodies in the elaboration and implementation of measures regarding the "voluntary organised return" of deportees and conciliation of their interests with those of the autonomy's general population.³⁵⁰ Special funds were allotted from the national budget for the returnees' resettlement,³⁵¹ largely for housing construction. The autonomy's government was encouraged to do the same. On Ukraine's initiative, an agreement between the CIS states was signed in October 1992 in Bishkek, providing for concerted efforts in creating conditions for the return, resettlement and integration of the deportees. These measures included assistance in transportation, the retaining of pensions and bank savings, as well as the acquiring of housing.³⁵² Although ratified by several states, including, of course, Ukraine, the agreement was never implemented because other governments were not interested in solving the problem.

The situation was further exacerbated by administrative arbitrariness of peninsular authorities, which prevented the returnees from using even the scarce legal and financial opportunities that had been provided by the centre. The Crimean government refused to allow the Mejlis to take part in deciding on the use of the funds allocated for resettlement. Instead, several more compliant Tatars were drawn into a newly established committee on the deported peoples' issues, which took care of the fund allotment. As the Mejlis repeatedly stated, a considerable part of the money was misused.³⁵³ The peninsula appeared to be unprepared to accommodate a massive and swift migratory influx, which severely exacerbated the existing shortages, including the shortage of jobs and housing. Nevertheless, the authorities clearly discriminated against the Tatars. The unemployment rate for them, ranging between 40 and 72 per cent according to various sources, was at least twice that of Crimea as a whole.³⁵⁴ In the late 1980s, in order to prevent the Tatars from owning land plots and building housings for themselves, the local authorities began to distribute land rapidly for vegetable gardens and dachas for the Slav population. At the same time, these were denied to the returnees under the pretext that there were no vacant plots. Under these conditions, in June 1989, the OKND leadership decided to provide support and assistance to the Crimean Tatars, who would occupy empty plots without official permission. This practice spread quickly to the entire peninsula. The authorities responded by destroying the tent settlements, making arrests and instigating Slav inhabitants from nearby villages to pogroms against the 'Tatar extremists'.

³⁴⁸ Brytchenko 1999, pp. 15f; *Zakon pro hromadianstvo* 1991; 1993; 1994 (quote in the latter; art. 2).

³⁴⁹ Interview with Chubarov, 16 September 1999.

³⁵⁰ *Postanova Kabinetu Ministriv Ukrainy*, 28 January 1992; *Polozhennia pro Respublikans'ku komisiuu* 1992 (quote on p. 97).

³⁵¹ Due to inflation, the incomplete transfer of the sums decided on and the misuse of those sums transferred, no monetary amounts concerning funding will be given in this work, as it is very difficult (and hardly relevant) to assess their relative value. Rather, decisions on the allocating and increasing of funds as political moves are worth mentioning in this work.

³⁵² *Bishkeks'ka uhoda* 1992.

³⁵³ Cemiloglu 1995, pp. 103f; Tyshchenko/Pikhovshek 1999, pp. 46ff, 61f.

³⁵⁴ *The Forced Migration Projects* (Ed.) 1996, pp. 29ff.

Although the returnees' persistence, after some time, resulted in the legalisation of ownership from the authorities,³⁵⁵ the confrontation continued in some places. On 1 October 1992, an incident in the village of Krasnyi Rai, near the coastal city of Alushta, became notorious after police stormed an unauthorised Tatar settlement. This caused a bloody clash, resulting in dozens of wounded on both sides and the arrest of two dozen young dwellers. Within a few days, the initially peaceful protest against their custody turned into violence. The participants of a meeting in Simferopol, who were protesting the incident, assaulted the autonomy's parliament and held the building for a few hours. While ordering the release of the detainees, the Ukrainian leadership, once again, expressed their support for Bahrov, blaming the conflict on the Mejlis. President Kravchuk called its activities unconstitutional and stated that Kyiv would only continue to deal with the autonomy's official bodies.³⁵⁶ At the same time, the demonstration of force of the Crimean Tatar national movement made the peninsular authorities abandon the overtly repressive, 'non-admission' policies in favour of a more reasonable and co-operative attitude.³⁵⁷ This did not, however, mean an end to discrimination. One of the factors promoting this shift was probably Bahrov's desire to ensure the Crimean Tatars' support against an increasingly influential separatist opposition.³⁵⁸ This was most clearly demonstrated in his position regarding their representation in the autonomy's parliament.

By then, leaders of the Mejlis had increasingly realised that participation in the official bodies was the only possible way for it to become a negotiating partner with the central and peninsular authorities and to be able to influence their policies with regard to the problems that concerned the Crimean Tatars. The only form of consociational arrangement that the autonomy's leadership agreed to discuss was the deliberate overrepresentation of the Tatars, according to a fixed quota, in the elections to the Supreme Soviet that were to be held in spring 1994.³⁵⁹ Since the number of Tatars had by then virtually stabilised at around 10 per cent of the peninsula's population, it was unlikely that they would even win a single seat if the majoritarian system were to be maintained. Even a rather improbable transition to the proportional system would give them no more than ten seats in the future parliament of 98 members, provided that the right to vote were granted to all residents, regardless of citizenship. In March 1993, Bahrov offered the Tatars a quota of 14 seats, in spite of strong opposition from the separatists. The Mejlis responded with a formula where nearly one third of the seats would be allocated to all deported and/or indigenous peoples, which was intended to allow them to block undesirable decisions on constitutional matters.³⁶⁰ However, even Bahrov's modest offer was rejected by the parliamentary session in September, which voted for a pure majoritarian system.

This decision evoked the largest Tatar protests since their return to Crimea. Once again, protesters resorted to violence by blocking railway lines. A month later, these protests resulted in the approval by the Supreme Soviet of a quota arrangement with fourteen seats for Tatars and four for the other deported peoples, with the exception of two indigenous groups, the Qrymchaqs and the Qaraims, which were deemed too small. In addition, a further 14 seats were to be elected by the general electorate from a parallel party list. However, the arrangement was for one election only, thus leaving the Tatars with no guarantee of permanent representation. At a special session in November, an overwhelming majority of the Kurultai voted for participation in the election under the proposed condition. The more radical new leadership of the OKND called for a boycott and the forming of a Crimean Tatar national government as an alternative centre of power. The Mejlis' head, Mustafa Jemilev, was lukewarm about the quota proposal and decided not to run in the elections. The argument in favour of participation was led by his deputy, Refat Chubarov, who was elected to first position in the Kurultai's list, and later headed its parliamentary faction. In order to ensure that the Crimean Tatars were united and that the

³⁵⁵ Cemiloglu 1995, pp. 103f.

³⁵⁶ UCIPR 1996, pp. 49ff; Tyshchenko/Pikhovshek 1999, pp. 49ff.

³⁵⁷ In particular, the Supreme Soviet adopted on 25 March 1993 a resolution on the unimpeded allotting of land for returnee housing. Červonnaja 1999, p. 182.

³⁵⁸ On the increased attention of the Crimean leadership to the returnees' needs in view of the presidential and parliamentary elections in the autonomy, see: Tyshchenko/Pikhovshek 1999, pp. 56, 67.

³⁵⁹ The first quota in the Crimean parliament was offered to the Tatars when the autonomy was being established in February 1991 and the oblast Soviet turned into a parliament, with co-optation of deputies representing deported groups and Sevastopol. The Mejlis refused the quota (seven seats out of nearly 200 in the then Soviet) as a surrogate of representation. Tyshchenko/Pikhovshek 1999, p. 59.

³⁶⁰ Wilson 1998, p. 299; interview with Chubarov, 16 September 1999. The groups other than the Tatars would get one seat each.

elected deputies were legitimate for all of them, the Kurultai stressed that participation should not be limited to Ukrainian citizens only.³⁶¹ This was possible in 1994 under the conditions of the flagrant violation of the Ukrainian legislation by the peninsular authorities, including voting by and even electing of Russian sailors. A year later, however, Kyiv would insist on respecting the law in the autonomy's local election, thus preventing the Tatars from participating (see section 3.3).

A similar pragmatic choice was made by the Mejlis with regard to the presidential election, which was scheduled two months before the parliamentary one. As noted above, the Crimean Tatars first opposed the very idea of the autonomy's presidency. They did not wish for the strengthening of a statehood which did not envisage their indigenous rights, and viewed the authorities in Kyiv as more ready to solve their problems than those in Simferopol. The November session of the Kurultai declared that Tatar participation in the election would only be possible if candidates appeared who promised to build the Crimean statehood within the framework of Ukraine, as well as respecting the Tatars' right to self-determination.³⁶² On 2 January, the Mejlis, instructed to determine a final position, called for a boycott. A week later, however, it declared support for Bahrov, as it saw him as the lesser of two evils. On the other hand, it continued to insist that "participation in the elections did not imply in any way the recognition by the Mejlis of the institution of a Crimean presidency". In contrast, the rival NDKT initially decided to have its own candidate run in the election. But as he was not allowed to join the race, the organisation switched to a boycott. Although the Crimean Tatars provided a considerable part of votes for Bahrov, they were unable to ensure his election and prevent the triumph of Meshkov, who did not conceal his anti-Tatar sentiments.³⁶³

The Tatars were also unable to stand in the way of the separatists' success in the March-April elections to the autonomy's parliament, due to the fact that they did not win any of the majoritarian seats. However, the Kurultai/Mejlis triumphed over the NDKT in the contest for reserved seats. Both organisations called for the restoration of Crimean Tatar statehood. However, while the former insisted on the recognition of the Mejlis as "the supreme plenipotentiary representative organ" in its election platform, the latter stressed the importance of Tatar participation in the existing structures of state power, and argued that the quota system provided a sufficient basis for resolving most problems. The radical expectations of the Crimean Tatars no doubt contributed to the stunning support shown for the Kurultai list. However, the organisational resources of the Mejlis, as well as its ability to maintain formal unity within the national movement, with the exception of one rather marginal part, were no less important. Having won more than 90 per cent of the Tatar votes, the Kurultai therefore captured all 14 seats that were available.³⁶⁴ This was a convincing demonstration of the political influence of the Mejlis, and a good starting point for its switch to parliamentary activity. This activity, however, had to take place under the unfavourable conditions of hostile domination.

3.2 *The HCNM's Recommendations of 15 May 1994*

I am aware that your government is making efforts to contribute to the solution of the problem of the resettlement of the Tatars in Crimea. The difficult economic situation has, however, put limits to the scope of your efforts. It is my view, which I shall also express when I report to CSCE organs on my mission, that there is a clear need for international assistance. The way funds made available for this purpose would have to be spent ought to be the subject of consultation with the Tatars.

It is important that Tatar representatives have been allotted 14 seats in the present Crimean parliament. It is, however, necessary to ensure that this arrangement will be continued when the new parliament is elected. Furthermore, it is essential, in order to avoid potentially dangerous tensions, that an institutionalised dialogue be established between the Crimean government and the Tatars.³⁶⁵

³⁶¹ Wilson 1998, pp. 300f; Postanovlenie tret'iei (vneocherednoi) sessii II Kurultaia, 28 November 1993(a).

³⁶² Postanovlenie tret'iei (vneocherednoi) sessii II Kurultaia, 28 November 1993(b). The Kurultai also demanded that a requirement of the presidency law, that candidates must have lived in Crimea for no less than ten years (which was clearly discriminating against the Tatars), be eliminated.

³⁶³ Wilson 1998, pp. 301f (quote on p. 302); Tyshchenko/Pikhovshek 1999, pp. 68ff.

³⁶⁴ Wilson 1998, pp. 302ff (quote on pp. 302-303); Tyshchenko/Pikhovshek 1999, pp. 75ff.

³⁶⁵ Letter by van der Stoep to Zlenko, 15 May 1994, p. 787.

As noted in chapter 2, the High Commissioner's visit to Ukraine in early May 1994, followed by the first batch of recommendations, took place a few days before the newly elected Crimean Soviet convened and, through its restoring of the autonomy's constitution of 1992, provoked an open conflict between Simferopol and Kyiv. In his rather preliminary discussions and recommendations, roughly equal attention was paid to three prominent (ethno-)political problems of Ukraine, including that of Crimean Tatar integration. This problem was discussed with relevant politicians and officials in Kyiv and Simferopol, as well as with representatives of the Tatars themselves. In spite of the Kurultai's impressive victory over its rival in the recent elections, the HCNM met with leaders of both the Kurultai/Mejlis and the HDKT. He preferred not to make references to any particular organisation in his recommendations. Later on, he would limit his meetings only to leaders of the Mejlis, as well as members of the Kurultai faction in the Supreme Soviet.³⁶⁶ Moreover, he would overtly declare his recognition of the Mejlis as "the supreme representative college of the Crimean Tatars".³⁶⁷

Although of a rather general nature, three points regarding the Tatar problem which the High Commissioner mentioned in his letter to Minister for Foreign Affairs Zlenko were not easy to accept by the authorities in Kyiv, not to mention those in Simferopol. It is clear that the Ukrainian government welcomed international assistance for the resettlement of the returnees. Zlenko in his reply asked van der Stoel to inform Kyiv about his "vision of the practical mechanism for the organisation of such assistance". He also supported the intention of the HCNM to include the idea in his report to the CSO. At the same time, the minister stressed that the assistance was necessary not only for the Tatars, but also for deportees of other nationalities.³⁶⁸ This preference for the deportation principle over the ethnic one in financial support, as well as indirectly in international involvement in general, including that of the HCNM, would be repeated in the letters of Zlenko's successor. Moreover, neither the Ukrainian nor the Crimean government was eager to allow representatives of the Tatars, primarily the Mejlis, to participate in the allotment of the assistance funds, as the High Commissioner had suggested. As for his unequivocal support for the permanent quota of Crimean Tatars in the Supreme Soviet, it was dubious to agree for opponents of the ethnicisation of the political process in Kyiv, and clearly unacceptable for dominant pro-Russian separatists in Simferopol, who viewed van der Stoel as biased because of his position on this issue. Furthermore, it was simply too early for most politicians to speak of an arrangement for future elections, given their unstable interests and preferences, and the uneasy compromise on quotas in autumn 1993. It is no surprise that there was no reaction to this proposal in Zlenko's letter, nor to the suggestion on establishing an institutionalised dialogue between Tatars and the Crimean authorities. According to Chubarov, even the Tatars themselves did not deem it necessary to look for institutionalisation in the form of a committee or council. They hoped for a dialogue through their participation in the legislative and, if possible, the executive bodies. Therefore, the two latter recommendations were not seriously discussed, while the idea of international assistance was slowly making its way forward.³⁶⁹

3.3 *The Crimean Tatar Problem During Separatist Domination in the Autonomy (May 1994 - August 1995)*

Needless to say, President Meshkov and the separatist majority in the Supreme Soviet were not going to allow the Kurultai deputies to use their mandates for promoting the interests of the Crimean Tatars in the power bodies. The Tatar deputies were at first not given a single place in the parliamentary presidium, and could not do anything to block resolutions that they opposed. However, the majority was soon divided by internal quarrels, and the consolidated faction of the Kurultai became an important factor in approving many proposals. After the clash between Meshkov and the Supreme Soviet in September 1994, the faction achieved its first significant success in entering the executive. Its nominees were given the posts of deputy prime minister and ministers of social protection and nationalities in the Franchuk government.³⁷⁰ However, as noted above, neither the protracted campaign for the

³⁶⁶ Interview with Chubarov, 16 September 1999.

³⁶⁷ Letter by van der Stoel to Udovenko, 12 October 1995, p. 803.

³⁶⁸ Letter by Zlenko to van der Stoel, 7 June 1994, p. 790.

³⁶⁹ Interview with Chubarov, 16 September 1999.

³⁷⁰ Savchenko 1994.

dismissal of the presidium, in winter 1995, nor the April initiative to suggest that Kyiv recognise Crimean loyal deputies as a legitimate parliament gave the Tatars access to the leadership of the Supreme Soviet. It was not, therefore, until the eventual change of leadership in July that the Kurultai faction took the opportunity to occupy the important post of deputy speaker (Chubarov), in addition to one more place in the presidium.

Meanwhile, resolute measures by the Verkhovna Rada against the autonomy's separatism undermined one of the most significant achievements of the Tatar deputies. Among the Crimean legislative acts that were held to be in violation of national legislation, the Ukrainian parliamentarians on 17 March annulled a law on the election of deputies of local councils, which had been adopted in January 1995, as well as amendments thereto that had been made in early March. The law was unacceptable for Kyiv, in particular because of its failure to limit the right to elect and to be elected to Ukrainian citizens only. It did, however, at the same time provide for the forming of special constituencies for the deportees.³⁷¹ After the law had been nullified, a decision on holding the election in accordance with national law was supported by the Verkhovna Rada only under the condition that amendments would be made to secure representation of the deportees.³⁷² When those amendments were put to vote on 5 April, however, many leftist and Russophone MPs objected to granting electoral privileges to certain citizens and attaching those privileges to their ethnic origin (nationality), rather than the fact of deportation. In addition to the reluctance to set a precedent of ethnicisation of the political process, this objection was caused by anti-Tatar sentiments of some deputies.³⁷³ The parliamentarians finally approved the amendments on the following day. However, their insistence on equal electoral rights for all citizens, as well as their avoidance of ethnic criteria in the formation of additional constituencies, found its expression in the provision that deportees had to submit to electoral commissions their applications containing, *inter alia*, their deportation data.³⁷⁴ There was, however, just a fortnight left for this, which was obviously not enough time to inform all the deportees and collect their applications. Moreover, the Verkhovna Rada insisted on respecting the norm that granted the right to vote to citizens only. It ignored the appeal of Crimean Tatar deputies to make an exception for the deportees, or to postpone the elections scheduled for June 25 until autumn, and meanwhile to apply a simplified procedure of granting them Ukrainian citizenship.

After a few days of the application campaign, the Mejlis decided on 14 April to declare a boycott. It argued that the mechanism stipulated by the newly adopted law "was bringing to nothing participation of the Crimean Tatars in the forthcoming elections", and splitting "the united people into two parts having unequal rights". Although Chubarov was cautious to stress that the local bodies elected without Tatar participation would be considered legal by the Mejlis, because they were formed pursuant to the Ukrainian legislation, he nevertheless believed that the election in the remaining constituencies could be held later.³⁷⁵ The decision of the Mejlis came as an unpleasant surprise to its sympathisers in Kyiv. However, they were not sufficiently numerous to ensure that demands be met. The HCNM, in his letter of 15 May 1995, urged the parties to find ways "to solve this problem in the coming weeks in order to ensure appropriate representation of the Tatars in local government".³⁷⁶ However, his request could not help, either. On the eve of the Crimean elections, instead of considering amendments that would implement this recommendation, the Verkhovna Rada was engaged in a controversy over a provision stipulating the minimal turnout necessary for the election to be valid.³⁷⁷ On 25 June, a majority of Crimean Tatars followed the Mejlis' call for a boycott. Therefore, the number of Tatar deputies appeared to be several times smaller than it would have otherwise been.³⁷⁸

The Ukrainian executive seemed to be more willing than the legislature to reciprocate the Tatar leadership's siding with Kyiv in its confrontation with Simferopol. Being left without an ally on the

³⁷¹ Tyshchenko/Pikhovshek 1999, p. 101.

³⁷² Tretia sesiia VRU, Bulletin No. 29, pt. II, pp. 4-72.

³⁷³ Ibid., Bulletin No. 33, pp. 61-78.

³⁷⁴ Zakon pro uchast' deportovanykh 1995.

³⁷⁵ Golos Kryma, 14 April 1995, p. 1; 21 April 1995, p. 1 (quotes); interview with Chubarov in: UCIPR 1996, pp. 140-142.

³⁷⁶ Letter by van der Stoep to Udovenko, 15 May 1995, p. 794.

³⁷⁷ Pro-presidential deputies managed to block the leftists' initiative to lower the turnout barrier, as they were afraid that such an amendment would help the peninsula's communists (who then won the elections anyway). Tretia sesiia VRU, Bulletin No. 75, pp. 40-63; Bulletin No. 81-82, pp. 23-32.

³⁷⁸ Interview with Chubarov, 16 September 1999.

peninsula after the fiasco of Bahrov, the central government slowly began to establish contacts with the Mejlis.³⁷⁹ The most significant change took place after the above-mentioned bloody conflict in late June between the Tatars and local racketeers, followed by clashes between the former and the police. While using the Crimean bodies' failure to keep public order as a pretext for placing the autonomy more firmly under the control of the centre, the Ukrainian leadership rejected versions about a criminal clash and Crimean Tatar provocation which were suggested by the local authorities and the militia. Kyiv chose to pay attention to social, economic and political processes on the peninsula which had made the conflict possible. Immediately after the clashes, Kuchma, on 26 June, issued a decree stipulating a number of measures to be taken by the law enforcement bodies in order "to finally put an end to the unlawful acts of criminal elements" in Crimea.³⁸⁰ In accordance with the decree, a government commission, consisting of representatives of relevant Ukrainian and Crimean ministries, was established a few days later. Its aim was to investigate the causes of the riot and present recommendations on measures which would prevent such situations in the future. Among the factors which had contributed to Tatar discontent, the commission pointed to high unemployment, unsatisfactory housing conditions of the deportees and the lack of social and cultural infrastructure in their settlements. Although one of the main reasons for these problems was considered to be the lack of funds, the head of the commission, the minister of nationalities Mykola Shulha, believed that legal and political aspects played no less of a role.³⁸¹

A government decree of 11 August which was based on the commission's findings appeared to be the farthest-reaching programme of measures aimed at solving the political, social and ethnic problems related to the integration of the Crimean Tatars, who were mentioned separately throughout the text, and other formerly deported persons in Crimean society. On the one hand, Kyiv decided to allocate additional funds for the return and resettlement of the deportees and requested that Simferopol consider allocating funds from the autonomy's budget. Until that time, the latter had spent nearly nothing on these needs. Moreover, an investigation of the spending of previously allocated money by the Crimean authorities was ordered. This was to result in a new mechanism for financing. The decree also envisaged a number of measures intended to raise funds from external sources, including appeals to foreign governments and international organisations. At the same time, the active effort was to be made to finally draw other CIS states to implement the return and resettlement programmes, both by making them ratify the Bishkek agreement, and by concluding additional bilateral agreements.³⁸²

On the other hand, the decree stipulated a number of (ethno-)political measures, marking the Ukrainian executive's new orientation towards greater support for the Crimean Tatars. The government planned not only to elaborate both short-term and long-term programmes for the resettlement of the deportees – and finally determine the basic principles of the nationalities policy – but also to submit to the Verkhovna Rada drafts of legislative acts regarding the rights of the Tatars and other deported groups. A declaration of persons and communities' rights which had been violated during the Soviet decades and a more specific law on rights of the deported national minorities were to be drafted. Relevant ministries were also instructed to draft a parliamentary resolution containing an official interpretation of the above-mentioned amendment to the citizenship law. This would extend to the returning deportees a simple procedure, the determination of possession of Ukrainian citizenship. Moreover, the ministries were to "inform" the Ukrainian and Crimean constitutional commissions about the proposals made by "the citizens' associations", i.e. primarily those submitted by the Mejlis, with regard to ensuring the parliamentary representation of the Crimean Tatars and other ethnic groups on both the national and the autonomy's level.³⁸³ Finally, the decree provided for the creation of a working group that was intended to legislatively determine the status of the Mejlis in order to install it in Ukraine's "political and legal field".³⁸⁴

³⁷⁹ Wilson 1998, p. 310.

³⁸⁰ Edict of the President of Ukraine, 26 June 1995 (quote on p. 162).

³⁸¹ Shamil' 1995; Golubenko 1995; Tyshchenko/Pikhovshek 1999, pp. 117ff. After Shul'ha's resignation, another commission was established in late July, headed by Deputy Prime Minister Vasyl' Durdynets'.

³⁸² Postanova Kabinetu Ministriv Ukrainy, 11 August 1995, pp. 131ff.

³⁸³ Ibid., pp. 128f (quote on p. 129).

³⁸⁴ Ibid., p. 130.

If the above measures had been taken, the rights of the Crimean Tatars would have been restored, and the possibilities for their integration opened to a degree that would have made the HCNM's involvement unnecessary. Though such measures would have possibly evoked discontent in the autonomy's parliament, they would have removed tensions in the Mejlis' relations with the Ukrainian authorities and the grounds for the protest mobilisation of the Tatar population. Reality, however, proved such a scenario false. It is true that the misuse of funds for the resettlement programme was largely stamped out, particularly due to the newly introduced control of the Tatar representatives in both the autonomy's parliament and government.³⁸⁵ However, the budgetary aid was not allocated in full, and the efforts to make the CIS states pay their share failed. Assistance from international donors was also not as large and quick as Kyiv had hoped for.³⁸⁶ Therefore, the social conditions of the returnees remained miserable, causing increasing discontent on their part. Even more disappointing was the fact that the legislative acts, envisaged by the decree, made slow, if any, progress in the Verkhovna Rada due to leftist/Russophone opposition. While further amendments to the citizenship law were made as late as 1997, the law on the restoration of deportee rights was not adopted at all, and the attempts to legalise the Mejlis led to no result until 1999 (see below). Meanwhile, Tatar discontent resulted in the radicalisation of mass sentiments and the appearance of political forces which challenged the Kurultai's/Mejlis' orientation towards unequivocal support for the Ukrainian state and co-operation with the existing authorities in Simferopol.³⁸⁷ The current leaders of the Kurultai/Mejlis managed for some time to retain the unity of the Crimean Tatar movement. However, this was only possible at the expense of a certain radicalisation of their political, or at least rhetorical, attitudes, which made it more difficult to reach a compromise with the authorities.

3.4 *The Round Table in Yalta and the HCNM's Recommendations of 12 October 1995*

As noted above, the tragic events of late June 1995 urged the High Commissioner, as well as the OSCE Mission to Ukraine, to shift the focus of their respective activities towards the problems of the Crimean Tatars on the peninsula. The shift was most clearly reflected in their attempt to apply to these problems the mechanism which had proved helpful in Locarno. The OSCE round table, where the subject was defined as "Overcoming the Problems of the Reintegration of the Deported Peoples into the Crimea", took place in Yalta on 20-22 September. However, it differed considerably from the instrument of 'quiet diplomacy' that had been used in May 1995 and in March 1996 for promoting a dialogue between the authorities in Kyiv and Simferopol. The aim of the OSCE organisers was now not only to let the relevant parties articulate their positions and facilitate establishing a dialogue between them, but also to foster a wider understanding of the problem within Ukraine and to bring the situation to the attention of the outside world. This orientation was reflected in the location of the round table, as well as in its turnout. It was held on the peninsula rather than abroad, and was attended by some 50 politicians, including representatives of the formerly deported groups, senior officials and academics from both Kyiv and Crimea, as well as a number of international observers, most of whom represented the OSCE and the UN bodies. The round table was also reported on by a number of media representatives.³⁸⁸ Accordingly, the High Commissioner, who co-chaired the talks together with the HOM Godfrey Garret, also let his position be publicised. However, he only made statements on one of the two major problems that were dealt with at the round table. The HCNM stressed the importance of informing the world community about the returnees' problems and raising international assistance for overcoming these problems. In particular, he pointed to the widespread reluctance to send any aid to a politically unstable region, stressing the urgent need to solve the tensions between Kyiv and Simferopol. At the same time, the High Commissioner argued that foreign states were not sufficiently aware

³⁸⁵ Adil'oglu 1995.

³⁸⁶ Tyshchenko/Pikhovshek 1999, pp. 120-128.

³⁸⁷ On 19 August 1995, a founding congress of the party Adalet convened which declared its unreserved striving for building a national state of the Crimean Tatars, restitution of the property which had been expropriated after the deportation and significantly increasing of the role of Islam. The party overtly blamed "continuing imperial policy of Ukraine (...) with respect to the indigenous people of Crimea". By then, the Adalet (headed by the Mejlis' member Server Kerimov) had become associated with the events of June 1995, where its armed supporters allegedly took part in fights with the racketeers and policemen. Later that year, the Asker self-defence units were reportedly formed from party followers. Chervonnaia 1997, pp. 15-21 (quote on p. 16); Kurshutova 1995a.

³⁸⁸ Packer 1998, pp. 309f; interview with Chubarov, 16 September 1999.

that their help was needed. He announced his intention to raise the issue in his report to the OSCE Permanent Council, as well as to approach the governments of a number of 'rich' participating states of the organisation. The HCNM also expressed his hope for ratification of the Bishkek agreement by the CIS states, which would further facilitate the process of the deportees' return and resettlement.³⁸⁹

However, in his letter to the Ukrainian foreign minister dated 12 October, the High Commissioner placed primary attention to political and legal aspects of the returnee problem. While addressing, first and foremost, the situation of the Crimean Tatars, he unequivocally recognised the Kurultai and the Mejlis as their representative bodies. To a considerable degree, he based his structural and substantial recommendations on the suggestions of his Mejlis interlocutors. It is worth mentioning that representatives of the alternative Tatar organisation NDKT did not even take part in the round table. Van der Stoel appraised the Ukrainian government's decision to set up an "inter-ministerial committee" on the problem of returnees, i.e. the above-mentioned commission that had been established pursuant to Kuchma's decree of 26 June, as well as the provisions regarding political and legal issues in the decree of 11 August. He qualified these measures as evidence of Kyiv's awareness of the necessity to pay "urgent attention" to these important facets of the problem,³⁹⁰ and presented his proposals on how to deal with them. First, he deemed it 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.³⁹¹

This recommendation, however, failed to promote the solution that had been suggested by the Mejlis leadership. They wanted the committee to work on the national level, preferably as a body under the president. It was to be entrusted with the task of making decisions, legalised as presidential decrees, on strategic political problems, rather than the more technical ones that were mentioned by the HCNM. Concerning technical problems, the Mejlis did not object to these being solved by the Crimean government, in particular, by the committee on national and deportee matters, given the newly established measure of control over its activity by the Mejlis itself.³⁹²

With regard to the second question that the High Commissioner dealt with, the facilitation of the acquisition of citizenship for the returnees, he fully supported the demands of the Mejlis. His suggestion was similar to one that the Mejlis had made when the Verkhovna Rada had been considering amendments to the citizenship law the previous year:

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.³⁹³

The subsequent recommendation dealt with the fixed representation of the Crimean Tatars in the autonomy's parliament. This problem clearly deserved urgent attention, in view of the preparation of the draft constitution for the second reading. The text adopted in the first reading, on 21 September, did not contain provisions to this effect. The HCNM was prepared to support any electoral solution that would prevent the Tatars from being left "with having no representation at all":

³⁸⁹ Holos Ukrainy, 26 September 1995, p. 2; Golos Kryma, 29 September 1995, p. 1.

³⁹⁰ Letter by van der Stoel to Udovenko, 12 October 1995, p. 802. The HCNM mistakenly took the "inter-ministerial committee" as established according to the decree of 11 August. As noted above, the commission actually started working in late June, and the government decree was based on its findings.

³⁹¹ Ibid., pp. 802-803.

³⁹² Interview with Chubarov, 16 September 1999.

³⁹³ Letter by van der Stoel to Udovenko, 12 October 1995, p. 803.

My recommendation would be to continue the present quota system as long as the present electoral law of Crimea remains in effect. (...) 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.³⁹⁴

The High Commissioner accepted representation of the Tatars to a degree corresponding to their share in the population, which was roughly 10 per cent, considerably less than the 1993 quota. By doing this, he clearly fell short of supporting the Mejlis' claims of fixing a higher level of the indigenous people's participation in the power bodies.³⁹⁵ Nor did the fourth recommendation meet the Mejlis' demands:

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.³⁹⁶

While pointing to the Mejlis' role as "the supreme representative college" between sessions of the Kurultai, the High Commissioner was only ready to support the Mejlis' fulfilling of the function of "the guardian of the identity of the Tatars". The compromise solution that he suggested, however, contradicted the reluctance of the Ukrainian and Crimean authorities to introduce ethnic criteria in politics and administration, even though they were applied in the educational and cultural fields. At the same time, this solution also ran counter to the Mejlis' striving to uphold ethno-cultural identity through political action. In Chubarov's view, van der Stoel primarily meant that the Mejlis should present cultural and educational problems to the power bodies, while the Mejlis itself insisted on an increased political role for itself, which would enable it to ensure that these problems were solved. Lacking mechanisms to realise 'specific responsibilities', the Tatar leadership preferred not to assume these.³⁹⁷

As the above recommendations largely corresponded to the Ukrainian government's own intentions, declared in the decree of 11 August, implementation of the former was a part of the efforts made to carry out the latter. By the time Udovenko replied to van der Stoel's letter, on 14 November, he could only assure that the recommendations were "being studied". The only definite statement he made about Kyiv's perception of the recommendations was that

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.³⁹⁸

Udovenko presented speeding up the ratification of the Bishkek agreement by the states of the deportees' (former) residence as "the top priority step". He thus stressed an aspect which pointed to the fact that the problem had been inherited from the former USSR (and hence implicitly justified Ukrainian authorities' inaction in resolving the problem) and, moreover, required the contribution of the High Commissioner.

As for the internal political and legal problems that van der Stoel's letter dealt with, attempts to solve them met with considerable difficulties and resistance. Thus, in accordance with the decree, on 2 November the government submitted a draft resolution to the Verkhovna Rada interpreting a provision in the citizenship law, which stipulated the procedure of determining possession of Ukrainian citizenship. The government proposed to apply this procedure to those returnees who had arrived in Ukraine too late to be automatically granted citizenship, but prior to the adoption of the analogous laws in their respective countries of residence after deportation, and were thus considered stateless persons. Had the

³⁹⁴ Ibid.

³⁹⁵ One of the possible models was proposed by Chubarov (1995), who envisaged a bicameral parliament of Crimea, with considerable overrepresentation of the Tatars in an upper chamber.

³⁹⁶ Letter by van der Stoel to Udovenko, 12 October 1995, p. 803.

³⁹⁷ Interview with Chubarov, 16 September 1999.

³⁹⁸ Letter by Udovenko to van der Stoel, 14 November 1995, p. 806.

resolution been adopted, this would have enabled the implementation of the HCNM's recommendation with respect to nearly a quarter of the returnees who lacked Ukrainian citizenship. However, the parliamentary presidium rejected the method that had been proposed. With its resolution of 15 January 1996, it instructed the government to submit amendments to the law, which were then not put into force until April 1997 (see section 3.8).³⁹⁹

Similarly, the government in November 1995 established a commission, composed of experts from relevant Ukrainian executive bodies, Crimean Tatar officials of the autonomy's government, and representatives of the Mejlis. The commission's charge was to elaborate a presidential decree on the legal status of the Kurultai and Mejlis. It was also to expand upon a respective bill to be submitted to the parliament.⁴⁰⁰ The adoption of such documents would have meant the long-awaited recognition of the two bodies. However, the commission did not suggest a solution that was acceptable for both the Ukrainian authorities and the Mejlis. The Ukrainian authorities kept refusing the claims of the latter for the status of a 'supreme representative body of the Crimean Tatar people', a type of 'national parliament'. The Mejlis, on the other hand, did not want to content itself with the role of a public organisation, arguing that the popular assembly that included members of various organisations had elected it. None of the valid Ukrainian laws provided for an opportunity to define a compromise status.⁴⁰¹ Moreover, the definition had to take into account the Crimean constitution, which was by then being adopted by the autonomy's parliament, and was being negotiated with representatives of the national parliament. In this process, matters of relevance to the Crimean Tatars, including their representation in the Supreme Soviet, were clearly marginal to both Simferopol and Kyiv. The implementation of one batch of the HCNM's recommendations thus ran counter to the implementation of a second one.

3.5 The Crimean Tatar Problem in the Controversies over Adopting and Approving the Crimean Constitution (November 1995 - April 1996). The HCNM's Recommendations of 5 April 1996

The adoption of the Crimean constitution in November 1995 clearly demonstrated a sharp contrast between political interests and strategies of the Kurultai/Mejlis on the one hand, and the parties of the predominantly Slav majority on the other. It also illustrated the limited resources of the former in pursuing its goals. The very process of securing their positions on symbolically charged matters in the document which, because of protracted confrontation regarding its provisions, was seen as more political than legal, urged the parties to demonstrate their allegiance to declared principles. This made conflict inevitable, and any implementation of the HCNM's recommendations on the autonomy's level impossible.

The Mejlis leaders preferred that the legal status of their people and representative bodies of the people first be defined in the Ukrainian constitution and laws, which the Crimean parliament would then be forced to take into account in its own acts. Nevertheless, the Mejlis attempted to take the opportunity of adopting a version of the autonomy's constitution which was to comply with Kyiv's demands in order to secure Crimean Tatar political and cultural rights. Matters of primary concern for the Kurultai faction were those that seemingly allowed for a compromise with the moderate part of the Supreme Soviet and, moreover, fell in the autonomy's competence. These issues were the guarantee of Tatar representation in the Crimean parliament and local self-government bodies (including the Kurultai/Mejlis' participation in the electoral process), as well as of the rights of the Crimean Tatar language in public use. Having abstained in the vote on the draft constitution in the first reading, the faction called for inserting provisions on that effect during the second reading.

However, the demand appeared to be unacceptable for the other major forces in the Supreme Soviet. Even those factions who were not opposed to the Tatar presence in the parliament and who supported proportional elections as a way of ensuring equitable representation of all ethnic groups, giving the

³⁹⁹ Brytchenko 1999, p. 17.

⁴⁰⁰ Golos Kryma, 1 December 1995, p. 1.

⁴⁰¹ Interview with Brytchenko, 18 October 1999.

Russians a majority of seats in any case, did not agree with the Mejlis' formula. The Mejlis called for guaranteed representation, through proportional elections in their ethnic constituencies, for 'the Crimean Tatar people and citizens who were deported on the basis of their nationality'. Most deputies viewed such proposals as striving for "fixing in the Constitution a notion of a separate legal subject (i.e., the Crimean Tatar people as an ethnic group, rather than a deported one) and national quotas as a step towards the future building of statehood on the basis of nationality". Instead, the champions of 'national equality' proposed proportional elections in a single Crimean-wide constituency.⁴⁰² With regard to languages, the Kurultai deputies demanded that a formal status of Crimean Tatar and Ukrainian, as state languages of the autonomy, be upgraded to that of official ones. These would be equal with the status of Russian, thus allowing public use of the three languages, rather than the latter only. In contrast, centrist non-Tatar parliamentarians pointed to the linguistic reality on the peninsula, which predetermined the dominance of Russian in official use. Nationalist deputies of the former Russia bloc, on the other hand, insisted on the symbolic importance of underlining the status of Russian as the language of the autonomy's population.⁴⁰³

On 1 November, when the draft constitution was considered in the second reading, the parliament failed to meet the Mejlis' demands regarding the two above-mentioned provisions.⁴⁰⁴ In response, the Kurultai faction refused to take part in the vote, and declared that it considered "neither itself nor its electorate bound with any norms, regulations or formulae this document contains".⁴⁰⁵ One of its members went on a hunger strike as a sign of protest. Although an overwhelming majority nevertheless adopted the constitution, the leadership of the Supreme Soviet made attempts to reach a compromise with the protesting faction. This was all the more expedient because, on the following day, almost all of its deputies joined the hunger strike. A working group elaborated on the compromise formulae, which were to be considered by the session on 4 November. According to one of them, Tatar representation was to be ensured through proportional elections in an all-Crimean constituency. The right to nominate candidates would be granted not only to political parties and organisations, but also to national-cultural associations and 'national assemblies'. The Kurultai fell into the latter category. While approving the amendment on proportional elections, the session, however, refused to extend the notion of 'election associations' to ethnic bodies. The majority was no less hostile to the idea of declaring equal rights to the three major languages on the peninsula, either by proclaiming all of them official languages, or by refraining from granting this additional status to Russian. Both of these proposals, which had been made by Chubarov, were rejected.⁴⁰⁶

On 5 November, the Crimean officers of the OSCE Mission to Ukraine attempted to mediate between the conflicting parties. They suggested a formula providing for the status of Russian as the (only) working language of the autonomy's power bodies, "until conditions for the practical equality [faktycheskogo ravenstva] of the state languages are created". The necessary time allotted to create such practical equality was to be determined by the language law.⁴⁰⁷ This suggestion was supported in an extraordinary session of the Mejlis. As Chubarov later explained, its members together with the Mission experts had actually elaborated it.⁴⁰⁸ The suggestion was also agreed upon by the parliamentary presidium. At the same time, a compromise formula was found for the problem of representation. This provided for an interpretation of what kind of organisations could be qualified as election associations. The Kurultai also fell into this category.⁴⁰⁹ Meanwhile, the head of the Tatar faction, Lenur Arifov, discussed the conflict in Kyiv with the head of the Ukrainian parliament, Olexandr Moroz. Moroz then instructed legal experts of the Verkhovna Rada to elaborate proposals on the controversial articles. These proposals appeared to be acceptable for the Mejlis as well. The proposals declared equal status for all three languages, referring to the relevant Ukrainian and Crimean laws for details on their function, and recognised the Kurultai as a subject of the election campaign in the autonomy.⁴¹⁰ Although

⁴⁰² Mishkina 1995 [centrist deputy Vadym (Vadim) Mordashov quoted]; Kurshutova 1995b.

⁴⁰³ Kurshutova 1995b.

⁴⁰⁴ Riabchikova 1995a.

⁴⁰⁵ Zaiavlenie fraktsii Kurultaia, 1 November 1995.

⁴⁰⁶ Kurshutova 1995c; Tyshchenko/Pikhovshek 1999, pp. 134ff.

⁴⁰⁷ Kurshutova 1995c.

⁴⁰⁸ Interview with Chubarov, 16 September 1999.

⁴⁰⁹ Kurshutova 1995c.

⁴¹⁰ Golos Kryma, 17 November 1995, p. 1.

the Kurultai deputies threatened to start a Tatar civil disobedience campaign if their demands were not met, on 15 November the Supreme Soviet decisively voted against a revised article on the languages. The interpretative statement about the election association was not even put to the vote. Moreover, a meeting organised by the Mejlis in front of the parliamentary building urged the deputies to denounce the Mejlis' pressure. They instructed the public prosecutor's office to study the legality of the body, and put to the agenda the question of confidence to Chubarov, as deputy head of the Soviet. The Mejlis' tactics of ultimatums and threats appeared to unite virtually all of the other forces in the Crimean parliament against the Tatars' demands.⁴¹¹

A civil disobedience campaign did not, in fact, eventually take place. The key factor in the Mejlis' decision to refrain from further such demonstrations was probably not so much the realisation of their inefficiency, but the hope that Ukrainian authorities would solve the political problems that were of primary concern to Crimean Tatars. This hope, which was based on the above-mentioned steps that Kyiv took in response to the events of June 1995, was further strengthened by Kuchma's meeting with representatives of all ethnic minorities. The meeting that took place on 13 November, immediately after the Kurultai deputies' hunger strike and on the eve of the decisive vote on their demands, naturally focused on the Crimean Tatar problem. It gave Chubarov a good opportunity to stress the prominence of this problem in Ukraine's nationalities policy.⁴¹² According to Chubarov, Kuchma agreed with his argument that "the state must not transfer to the regions the right to solve inter-nationality problems, since the regions solve them in a way beneficial to a majority, without taking into account the interests of a minority". Having recognised that the legislation on ethnic problems did not often work and that the executive had to make an increased effort to solve them, the president announced the formation of a committee that would directly advise him on ethnic policies. It would consist of key governmental and parliamentary figures, as well as some minority representatives, including those of the Mejlis.⁴¹³ The committee seemed to be the main result of the meeting, which appeared to lead to the implementation of the respective proposals of the Crimean Tatar leaders and the HCNM.⁴¹⁴

Given the Mejlis' negative reaction to the autonomy's constitution of November 1995, it was not surprising that the Mejlis consistently supported Kyiv in its controversy with Simferopol over the content of the constitution and the procedure of its approval. In contrast to the majority of the Supreme Soviet, the Mejlis welcomed the appointment of Dmytro Stepaniuk as the new presidential representative in the autonomy with a considerably broader scope of powers.⁴¹⁵ Accordingly, the Kurultai faction did not support the above-mentioned resolutions of protest of the Crimean parliament in response to the draft constitution of Ukraine in early March 1996. A few days later, Chubarov was the only peninsular participant in the Noordwijk round table who did not favour the idea of partially approving the autonomy's constitution. The key figures of the Ukrainian parliament dealing with the constitution, however, seemed to be rather indifferent to the Crimean Tatar problem. They did not, at least, consider it to be of primary importance to Kyiv's interests on the peninsula. In their respective reports to the Verkhovna Rada on 20 and 21 March, neither Stretovych nor Karmazin mentioned the Tatar grievances. That is, the lists of provisions viewed as violating Ukrainian legislation did not include those provisions that were protested by the Kurultai faction. Even the Ukrainian nationalist deputies failed to support the demands of the Tatars, whom they on many occasions called Kyiv's allies. It is correct that the language article was rejected, since it contradicted the official status of Ukrainian in the country. It is also true that the article on the electoral system was not approved in full because the autonomy's parliament insisted on Sevastopol being part of the all-Crimean constituency. However, the Tatars could very clearly see that their interests were not being taken into account. After the document had been approved in the first reading, the presidium of the Mejlis warned that "the Verkhovna Rada of Ukraine makes a serious political mistake" by ratifying the Crimean constitution in its existing form.⁴¹⁶ As noted above, with the exception of two dozen controversial articles, this did not prevent the constitution from being put into force.

⁴¹¹ Mirzalieva 1995; Riabchikova 1995c.

⁴¹² Tarnavs'ka 1995.

⁴¹³ Mirzalieva 1995.

⁴¹⁴ As noted above, the High Commissioner did not suggest what the Mejlis did. Kuchma's announcement rather seemed to follow the line of the latter.

⁴¹⁵ Zaiavlenie Presidiuma Medzhhlisa, 21 February 1996.

⁴¹⁶ Zaiavlenie Presidiuma Medzhhlisa, March 1996.

Contrary to Tatar hopes, international involvement, including that of the HCNM, did not significantly contribute to solving their political problems. Although Chubarov believed that the Noordwijk round table would pay particular attention to these problems,⁴¹⁷ they were not mentioned in van der Stoel's letter of 19 March and were only paid secondary attention in the letter of 5 April. The High Commissioner's recommendations in the second letter primarily dealt with the Tatars' representation. He deemed it necessary that the Mejlis, "in the context of the ARC electoral system, be considered as a body which also fulfils the role of an election association", and that a proportional system be introduced (or actually retained, as it had been stipulated by a constitutional provision, though one rejected by Kyiv). Given that the High Commissioner presented the Mejlis as "clearly regarded by the overwhelming majority of the Crimean Tatars as their representative body in the periods between the session[s] of the Kurultai"⁴¹⁸, his suggestion regarding its status was very modest. It was hardly sufficient for the Mejlis, which insisted on being recognised in the latter capacity. However, even such a modest suggestion was not implemented in the next version of the autonomy's constitution, which was adopted in June 1997. As for the proportional system, it was finally rejected by the Ukrainian parliament in laws on the Crimean representative body.

Another point in the HCNM's letter related to the returnees' citizenship. He urged the Ukrainian leadership to ensure that "legislation to solve this problem", that is, the above-mentioned amendments to the citizenship law, be placed on the parliamentary agenda and finally be put into force.⁴¹⁹ The recommendation was not, however, implemented at any time soon after. The amendments that had been presented by a working group with the Kurultai deputies' participation were approved by relevant parliamentary commissions, although with significant changes.⁴²⁰ However, the leadership of the Verkhovna Rada preferred not to bring these amendments to the consideration of the session until the new Ukrainian Constitution was finally adopted, in late June. Then, a revised citizenship law had to be elaborated based on the Constitution, which took much longer (see section 3.8).

At the same time, the High Commissioner's efforts regarding international assistance to the realisation of the return and resettlement programme seemed to be more successful. The newly established United Nations Development Programme for Crimea organised a first donor conference on the deported peoples of the peninsula, which took place on 2 April in Geneva. The conference was attended by a number of Ukrainian and Crimean officials, including the head of the Mejlis, Mustafa Jemilev, as well as representatives of dozens of foreign governments and international agencies. The HCNM took part in the conference and made a plea to the participants for substantial contributions aimed at assisting Kyiv in meeting the demands of the returnees. Several states announced their first, rather modest donations. The only exception was Turkey, which confirmed its earlier promise to implement a rather costly project of building 1000 apartments for the Crimean Tatars.⁴²¹ Meanwhile, the office of the United Nations High Commissioner for Refugees became involved in helping the former deportees, who were treated as a specific category of refugees. In particular, the UNHCR facilitated their acquisition of Ukrainian citizenship. The Crimean Tatar problem was also making its way to the agenda of other UN agencies, including the Commission on Human Rights and its working group that was intended to elaborate a draft declaration on the rights of the indigenous peoples. However, international contribution to solving the political problems of the Crimean Tatars remained limited. These problems had to be dealt with, first and foremost, in an internal Ukrainian context.

3.6 Provisions Regarding the Crimean Tatars' Rights in the New Constitution of Ukraine, and its Evaluation by the Third Kurultai

On 11 April 1996, soon after the Crimean constitution had been partially approved by the Verkhovna Rada, the autonomy's parliament started considering the draft law entitled "On restoration of the rights of the Crimean Tatar people, Armenians, Bulgarians, Greeks and Germans who were deported in 1941

⁴¹⁷ Golos Kryma, 8 March 1996, p. 1.

⁴¹⁸ Letter by van der Stoel to Udovenko, 5 April 1996.

⁴¹⁹ Ibid.

⁴²⁰ Abdureshitov 1996.

⁴²¹ OSCE Newsletter, 4/1996, p. 5; Golos Kryma, 12 April 1996, p. 1.

and 1944". The government committee on national matters had elaborated on this draft in collaboration with the Kurultai deputies. The pro-Russian majority vividly demonstrated its anti-Tatar prejudice and, as some authors suggest, requited for the Kurultai faction's opposition to the autonomy's constitution. The deputies not only objected to separating the Crimean Tatar people from the deported population, but also denied the uniqueness of the deportees' plight and even the very fact of the deportation.⁴²² The firm anti-Tatar position of the majority was repeatedly confirmed in May, July and November by its refusal to cancel a resolution of the former Crimean oblast council of September 1990 which had limited places for the returnees' settlement, as well as a number of other acts that discriminated against the returnees. A member of the Kurultai faction, Nadir Bekirov, qualified this refusal as another demonstration of the parliament's willingness to "retain the apartheid regime in Crimea".⁴²³

These demonstrations were perceived by the Mejlis as a further argument for placing primary emphasis on efforts to get the rights of the Crimean Tatar people guaranteed by Ukrainian, rather than Crimean, legislation. The Tatar leadership was less interested in money for the return and resettlement of the former deportees, than in legislative acts on the 'restoration' of their rights.⁴²⁴ The most important opportunity presented itself to the Crimean Tatar leadership when Ukraine's new constitution was being elaborated, discussed and adopted. During this process, they managed to achieve one of their fundamental goals, namely to get the very notion of the indigenous people included in the text of the constitution. The draft approved by the constitutional commission on 11 March 1996 referred to the state's obligation to promote "the development of the ethnic, cultural, linguistic and religious identity of all national minorities". However, this formula appeared to have been changed in the text presented in late May by the ad hoc parliamentary commission, where the same obligation applied to "all national minorities and indigenous peoples".⁴²⁵ This change had been made possible by the Kurultai deputies, who had lobbied with some influential members of the Ukrainian constitutional process. During the later debates, it was criticised only by representatives of Romanian and Hungarian minorities, who did not want to let the Crimean Tatars have a broader scope of rights than those that their respective groups held.⁴²⁶ Most Russophone opponents of granting the Tatars additional rights, including parliamentarians representing the peninsula, focused on resisting the Ukrainian nationalists' attempts to fix the status of Ukrainian as the only official language and national(ist) state symbols in the constitution. Therefore, the provision on indigenous peoples was supported rather unanimously, all the more so because no reference was made to the Crimean Tatars as one of those peoples.

This, however, appeared to be the only achievement of the Mejlis. Its other demands were not even discussed when the draft constitution was considered by the Verkhovna Rada. Again, the Ukrainian nationalists displayed almost complete indifference to the plight of their ally. They made no effort to insert a provision on the rights of the Crimean Tatar language. In effect, such a proposal would have played into the hands of their opponents, who would have used it for defending the rights of Russian. If the group's status as an indigenous people were not stipulated, its fixed representation in the Ukrainian parliament would be out of the question, which was a demand the Mejlis had begun to make, in addition to its demand for representation in the Crimean Soviet.⁴²⁷ Moreover, the chapter on the Crimean autonomy contained no reference to the specific rights of the Tatars. As noted above, the nationalists' priority concerning this issue was to limit the autonomy's powers as far as possible. In any case, had they proposed any provision on the Tatars, their opponents would have done the same with regard to the Russians.

⁴²² Golos Kryma, 19 April 1996, p. 1; Bekirov 1996; Vadimov 1996.

⁴²³ Golos Kryma, 31 May 1996, p. 1; 12 July 1996, p. 1 (quote); 15 November, p. 1.

⁴²⁴ Vadimov 1996. A resolution of a meeting held in Simferopol on 18 May objected to a shift from "solving of the Crimean Tatar problem to solving of the resettlement problem only", calling for the adoption of a law on the status of the Crimean Tatar people in Ukraine and other legislative acts. Kurshutova et al. 1996.

⁴²⁵ Proekt Konstytutsiii Ukrainy 1996a, 1996b (art. 11). The extended formula also appeared in arts. 92 and 119.

⁴²⁶ P'iata sesiiia VRU, Bulletin No. 98, [Kyiv] 1996, pp. 72f. Those deputies believed that all traditional ethnic minorities residing on their ancestral territories, within the current borders of Ukraine, were indigenous to the country. Moreover, they argued that the international documents on human rights used this term with respect to tribal groups only, the argument often used by many other opponents of such legalisation.

⁴²⁷ In particular, it was one of the demands of the meeting of 18 May 1996. Golos Kurshutova et al., 1996.

On 26 June, two days before the Ukrainian constitution was adopted, the first session of the third Kurultai started its work in Simferopol. The growing radicalism was evidenced by both the composition of delegates, roughly half of whom supported the OKND, and by speeches at the session, including a keynote address by Jemilev. His radical statements were, to a degree, intended to prevent opponents from blaming the Mejlis' leadership for inaction and compliance with the authorities.⁴²⁸ He attacked not only the "semifascist parliament" of the autonomy, but also Kyiv's "indifference to our plight". Radical delegates, led by the OKND, circulated a far more resolute document, entitled "On the Struggle with the Colonial Regime". This called for, in particular, the withdrawal of the Tatar deputies from representative bodies of all levels within two weeks, unless the indigenous people were guaranteed one-third of the seats, as well as for a "mass, ongoing campaign of civil disobedience". The document was not put to the vote.⁴²⁹ However, the Kurultai passed an appeal to the UN, OSCE, CoE and other international organisations, using not much less radical language. While appraising efforts of the Ukrainian state to promote the returnees' resettlement, the appeal accused the state of a conscious "policy of avoiding (...) the consideration and solution of the Crimean Tatar problem in its political and legal aspects, as well as from the point of view of human rights". Kyiv was allegedly "encouraging the system of apartheid, which was established by the Soviet regime and is thoroughly preserved by the Crimea administration", in particular, by denying the citizenship right to nearly a half of the Tatar returnees. Moreover, the document declared that the Ukrainian state ignored both its international obligations and "the most reserved and tactful" recommendations of international institutions, including the HCNM. Moreover, the Ukrainian state allegedly misinformed these institutions about the Tatars' situation and tried to put an end to the activities of their missions on the peninsula, even though the presence of the latter "was a factor somewhat restraining most brutal forms of ethnic discrimination against the Crimean Tatars".⁴³⁰

The radical mood of Kurultai delegates was also reflected in the membership of the newly elected Mejlis, almost one third of which represented the OKND. However, the two key figures, Jemilev and Chubarov, were re-elected. They confirmed the basic principles of non-violence and constitutional protest.⁴³¹ The retained orientation regarding co-operation with Kyiv was demonstrated by a rather moderate discourse in the session's appeal to the Verkhovna Rada when the new Constitution was adopted. The appeal did not include any accusations or ultimatums. It called for inserting in the Constitution, both in the section containing the general norms regarding human and ethnic rights, as well as in the chapter on the ARC, provisions on the rights of the Crimean Tatars as "the indigenous people of Crimea and, therefore, of Ukraine". The Kurultai argued that constitutional provisions would create a basis for further legal acts aimed at ensuring the Tatars' rights.⁴³² Actually, at least some of these acts could be adopted on the basis of the provision on the indigenous peoples, which was already included in the Constitution. In his interview after the Kurultai session, Chubarov made clear that such tactics were acceptable for the Mejlis' leadership. He suggested that the constitutional provision be developed into a special law which would establish the status of the Crimean Tatar people. While admitting that the Verkhovna Rada would probably be reluctant to adopt this method, particularly because of the communists' resistance, he hoped for pressure from the president.⁴³³

3.7 *The HCNM's Recommendation of 14 February 1997: Rights of Indigenous Peoples, Recognition of the Mejlis, and Use of Languages*

The Ukrainian executive did take some measures aimed at developing the constitutional provision on the indigenous peoples in legislative acts, which would stipulate their rights. A working group was established at the Ministry of Justice in autumn 1996 and charged with the elaboration of relevant drafts. As evidenced in an interview with its member Tetiana Shamraenko, the group had largely accepted the Mejlis' arguments about European precedents of the legislative arrangements on the rights

⁴²⁸ The session was postponed for a year, partly because the Mejlis' hoped for some progress in ensuring the Tatars' rights. This would have bolstered the leadership's moderate position against proponents of radical methods.

⁴²⁹ Wilson 1998, pp. 311f.

⁴³⁰ Obrashchenie pervoi sessii III Kurultaia, 29 June 1996(b) (quotes on p. 79).

⁴³¹ Korobova 1996; Wilson 1998, p. 312.

⁴³² Obrashchenie pervoi sessii III Kurultaia, 29 June 1996a (quote on p. 77).

⁴³³ Pritula 1996.

of indigenous peoples. In particular, she referred to legislation of the Scandinavian states regarding the Saami and Convention No. 169 of the International Labour Organisation (ILO), as well as to the Draft Declaration on the Rights of Indigenous Peoples which was being worked on by UN experts in Geneva.⁴³⁴ One of the documents elaborated by the group, the Draft Concept of the National Policy of Ukraine in Relation to Indigenous Peoples,⁴³⁵ appeared to be a pretext for another batch of HCNM recommendations on the Crimean Tatar problem. On 25 November, Minister of Justice Serhii Holovaty sent him the draft, asking for his advice.⁴³⁶

Van der Stoel's letter of 14 February 1997 was, as usual, addressed to Minister for Foreign Affairs Udovenko, but with a request to bring it to the attention of Holovaty. In his letter, van der Stoel followed a similar line of argument regarding indigenous peoples, though using those arguments with some reserve. While referring to the existence of some international acts on the matter, he did not deem that they obliged Ukraine to "take specific legislative steps to protect the interests of, or to grant specific rights to, indigenous peoples". Indeed, the UN's draft declaration was only being discussed by a working group of the Commission on Human Rights, and Ukraine was party to neither of the two relevant conventions of the ILO.⁴³⁷ The High Commissioner also stressed that, as "generally assumed", indigenous peoples could enjoy all the rights of (persons belonging to) national minorities. These rights were laid down in various international instruments and the respective Ukrainian law, the latter providing for the right to 'national-cultural autonomy'. At the same time, the HCNM pointed to an important distinction between national minorities and indigenous peoples, namely that the latter did not have kin-states. As a possible way of defining the legal status of indigenous peoples, he referred to the example of "some Nordic counties", which had been analysed by Crimean Tatar and Ukrainian experts. An important feature of those states' approaches, which he recommended Kyiv to follow, was "the essential role allotted to the formalisation of a process of participation and consultation". Accordingly, in the case of the Tatars, the High Commissioner suggested that

their representatives in the Crimean Rada will at the same time play the role of a consultative body which will be enabled to present its view on Ukrainian draft legislation of relevance for Tatars, and which could at the same time function as an organ of dialogue with the Ukrainian Government regarding the economic, social and cultural problems confronting the Crimean Tatar returnees.⁴³⁸

Contrary to the respective recommendation of October 1995, this suggestion took into account the Tatar leadership's emphasis on such a body being preoccupied with political, rather than educational and cultural problems. However, it fell short of supporting their principal demand that the Mejlis be recognised as a representative body of the Crimean Tatars whose competence would then include acting in the above capacity, or charge its representatives with doing so. As a compromise solution, the Tatar leaders proposed that Kuchma declare the Mejlis a presidential consultative body. Moreover, a draft decree on this effect was elaborated in 1996 by officials of the Ministry of Justice and the presidential administration, with the participation of the Mejlis' members. The draft decree was not, however, signed until 1999. While attaching symbolic importance to the recognition of the Mejlis, its leaders saw no obstacles to fulfilling the participation and consultation functions in their capacity as Crimean deputies. Therefore, they did not want a surrogate formalisation.⁴³⁹ It was only when they lost their mandates in 1998 that an alternative legalisation of their political status became important for them, even if stripped of its representative symbolism (see section 3.10).

⁴³⁴ Pozdniakova 1996. The Mejlis' member Nadir Bekirov participated in meetings of a working group by the UN Commission on Human Rights that was in charge of elaborating a draft declaration. Aliadinova 1996a, 1996b. On that draft and other international instruments regarding the rights of indigenous peoples, see: Bowring 1998. For examples of the Crimean Tatar leadership's referring to the Saami precedent and the ILO Convention, see: Chubarov 1995; Kurtiev 1995.

⁴³⁵ A definition of an indigenous people in the draft "would seem to be expressly designed to exclude any group other than the Crimean Tatars". Bowring 1998, p. 30.

⁴³⁶ It is not clear whether this aspect of the problem was dealt with during van der Stoel's visit to Ukraine on 18-21 December, as it was not mentioned among the topics covered in the discussions, and Holovaty was not listed among his interlocutors. OSCE Newsletter, 12/1996, p. 13.

⁴³⁷ Letter by van der Stoel to Udovenko, 14 February 1997.

⁴³⁸ Ibid. Furthermore, representatives of other indigenous peoples and other ethnic groups, who had to cope with returnee problems, could be invited to join the consultative body when matters that were relevant to them were discussed.

⁴³⁹ Interview with Chubarov, 16 September 1999.

In his reply dated 25 March, Udovenko supported the idea of using Crimean Tatar deputies as the consultative body of the autonomy's Rada for resolving the deportees' problems. He argued that this would fulfil the Tatar proposal and, at the same time, "avoid putting ethnic criteria in its basis".⁴⁴⁰ However, no steps were taken towards the realisation of this idea. Moreover, the draft of the Concept of Ukraine's National Policy with Regard to Indigenous Peoples failed to find support in relevant committees of the Verkhovna Rada. It found strong opposition from some Russian/Russophone and other minority deputies, who in this manner settled the score with those insisting on including the respective provision in the constitution. Accordingly, no law on ensuring the rights of the Crimean Tatars could be passed.

A further recommendation of the High Commissioner pertained to the status of languages spoken on the peninsula, as provided for by the autonomy's constitution. As noted above, the Verkhovna Rada did not approve the respective article in April 1996. The reason was that it failed to reflect the status of Ukrainian, the only state/official language in the country, as an official language of the autonomy. The latter status was recognised for Russian only. At the same time, the Kurultai deputies' demand that the Crimean Tatar language be given an equal status with the other two languages was unacceptable to both parliaments. Kyiv was reluctant to admit any other language to share an equal status with Ukrainian. In any case, to promote such a status for Crimean Tatar meant to instigate Russophone insistence on this status being granted to Russian. In contrast, the (pro-)Russian majority in Simferopol asserted the symbolic priority of Russian, and objected to upgrading the status of Crimean Tatar as a step towards the realisation of the Kurultai/Mejlis idea of national-territorial autonomy.

The HCNM attempted to reconcile these conflicting interests. In doing so, he rather consistently stuck to the letter of the Ukrainian legislation. This was a precondition of support for his recommendation by the Verkhovna Rada, which was finally to judge the articles of the Crimean constitution. While siding with Kyiv's demand that the status of Ukrainian as the state language be reflected in the constitution of the ARC, the HCNM suggested a formula for further referring to the rights of Russian and Crimean Tatars. It was based on the Ukrainian Constitution's provision guaranteeing 'the free development, use and protection' of minority languages, as well as on an article of the 1989 language law providing for the use of minority languages alongside the state's in places of the respective minorities' compact settlement. His formula was as follows:

In places of compact settlement of persons belonging to other nationalities (cities, regions, villages or their combinations) their national languages may be used alongside the state language in organs of the ARC, organs of local government, non-public institutions and enterprises. In the Parliament of the ARC, the Russian and Tatar languages may be used alongside the state language. The free development and protection of the Russian language, the Tatar language and other languages spoken in the ARC is guaranteed.⁴⁴¹

In effect, the first sentence of this formula is a repetition of the respective article of the Ukrainian law on languages,⁴⁴² with the exception of one important detail. The High Commissioner proposed not to limit the right to officially use minority languages to places where 'persons belonging to other nationalities' constituted a majority. This deviation supported his older recommendation that the local majority barrier be lifted as a precondition for public use of non-titular languages. It was, however, not intended to ensure the rights of Russian, as had been the case in May 1994 (see section 4.2), but rather of Crimean Tatar, which would have otherwise been limited to ethnically homogenous settlements only. Two further parts of the proposed formula also favoured primarily the Tatars. First, Russian and Crimean Tatar should be given an equal status in one of the most symbolically charged fields of public use, the Crimean Rada. If adopted, this provision would have eliminated the monopoly of Russian in that body, since the Tatars, contrary to the Ukrainians, would have no doubt taken the opportunity to use their language. The final sentence repeated the respective provision of the Ukrainian Constitution, but once again underlined the equal status of the Russian and the Tatar languages.

⁴⁴⁰ Letter by Udovenko to van der Stoep, 25 March 1997.

⁴⁴¹ Letter by van der Stoep to Udovenko, 14 February 1997.

⁴⁴² The Law of the Ukrainian Soviet Socialist Republic On Languages, Art. 3.

Although seemingly falling short of supporting the Mejlis' claim for an official status of Crimean Tatar, the HCNM's recommendation offered the Tatars both symbolic and practical benefits. It thus took their interests into account to a much higher degree than those of the Russians, who were to lose much of what they already possessed. It is not surprising that the recommendation was not accepted by the autonomy's parliament. The language article in the revised constitution of June 1997 stuck to the earlier formula of the three state languages of the autonomy, Russian being the only official one. Moreover, a further provision guaranteeing the peninsular residents "the right to use their native language or any other language, and to freely choose a language of instruction and education [obucheniiia i vospitaniia]" failed to specifically refer to Crimean Tatar.⁴⁴³ The new Constitution of October 1998 reflected the status of Ukrainian as the state language, which made the document acceptable to Kyiv in that respect. As noted above, the deputies gave up the idea of Crimean statehood and, therefore, did not refer to state languages of the ARC. However, the Constitution failed to provide for equal rights of Russian and Crimean Tatar in the way the High Commissioner had suggested. It is true that the document included his provision on ensuring, alongside the state language, "the functioning and development, use and protection of Russian, Crimean Tatar, as well as languages of other nationalities". However, another provision read that "Russian as a language of a majority of the population and one acceptable for inter-nationality communication is used in all spheres of social life". Moreover, further articles provided for the parallel use of Russian and Ukrainian in some spheres that were crucial for linguistic human rights, including courts, notaries, post and all other public services.⁴⁴⁴ In contrast, Crimean Tatar could only be used, on an equal footing with all other minority languages, as the language of instruction or as a language to be learned in schools and pre-school institutions held by the state or national-cultural associations as well as in public services where it happened to be "acceptable for the parties". An additional right, which speakers of some other languages did not have, was the right of those speaking Crimean Tatar to obtain "official documents certifying a citizen's status" filled out in their language upon their request.⁴⁴⁵ Last but not least, by failing to stipulate the languages to be used in the autonomy's representative body, as the HCNM had recommended, the Constitution also denied Crimean Tatars the right to speak their language in this body. It was, however, included among the three languages in which the parliamentary acts were to be published.⁴⁴⁶ The latter provision served as a surrogate of those languages' former status of the state languages in the ARC. In practice, the deputies who had been elected in 1998 would not have used the right to speak Crimean Tatar in the autonomy's Rada anyway, as there was not a single Tatar representative among its deputies. Meanwhile, Kyiv appeared to be reluctant to pressure Simferopol to get the Tatars' rights respected in either of these two fields.

As will be seen below, two further recommendations of this rather big batch, which appeared to be the last formal intervention of the HCNM in the Crimean Tatar problem, were also not implemented.

3.8 *The HCNM's Recommendation of 14 February 1997: Citizenship*

Another problem, which the HCNM discussed in detail in his letter, was that of granting citizenship to the Crimean Tatar returnees. For the first time, he distinguished between two categories of the returnees, and presented a differentiated approach to the problem. This, however, seemed to be partly based on a misunderstanding. As the first category, the HCNM mentioned "the very large number of Tatars" who were supposedly not aware of their Ukrainian citizenship and, therefore urgently had to be certified as citizens.⁴⁴⁷ He was referring to those persons who had returned to Ukraine by November 1991, when the citizenship law had come into effect. These persons had the right to be granted citizenship automatically. However, as one of the key governmental officials in charge of the citizenship problem argued, there was no need for such certification. All those people residing on Ukrainian territory by the above time were considered citizens, whether they were aware of the fact or not. Their residence had to be demonstrated by registration dated no later than 13 November 1991. According to a

⁴⁴³ Zakon ob izmeneniiakh v Konstitutsiiu ARK 1997, pp. 656-657 (quote on p. 657).

⁴⁴⁴ Konstytutsiia Avtonomnoi Respubliky Krym 1998, pp. 2326-2327 (quote on p. 2326).

⁴⁴⁵ Ibid., (quote on p. 2327).

⁴⁴⁶ Ibid., p. 2324.

⁴⁴⁷ Letter by van der Stoep to Udovenko, 14 February 1997.

resolution of the Supreme Court of Ukraine, residence as the basis for acquiring citizenship was not subject to judicial determination. At the same time, registration also sufficed for them to be treated as citizens.⁴⁴⁸

In contrast, the High Commissioner failed to make any differentiation among those returnees who had arrived in Crimea after the date mentioned and did not have Ukrainian citizenship at the time of his writing.⁴⁴⁹ The Ukrainian government, however, divided this category into two further groups. In the first group were persons who left the states of their previous residence (in Central Asia or Russia) prior to the adoption of their respective laws on citizenship. These persons were thus left with no citizenship at all. This group of stateless persons amounted to nearly a quarter of all returnees who did not have Ukrainian citizenship (approximately 23,000 of 105,000). A second group of roughly 82,000 consisted of those persons who had stayed in other post-Soviet states long enough to be granted their respective citizenship. This had been granted to them automatically, that is, regardless of their willingness, as citizenship laws of those states were based on the same principle as the Ukrainian one. The Ukrainian authorities, therefore, qualified these people as foreigners.⁴⁵⁰ As noted above, a revised law, which was by then being considered by the Verkhovna Rada, was to extend to former deportees and their descendants a simplified procedure of acquiring citizenship, the determination of possession of Ukrainian citizenship. However, if a respective provision of the draft were adopted, only members of the first group would be able to get citizenship by simply submitting an application.

For persons belonging to the second group, a certificate of cancellation of their previous citizenship was required. The Ukrainian state insisted on single citizenship, all the more so after it was fixed in the new constitution (prior to that, double citizenship had been allowed according to bilateral treaties). After their efforts to persuade Kyiv to make an exception with the former deportees had failed, the Crimean Tatar leadership realised that the vast majority of the non-citizen returnees would not benefit from the future Ukrainian law. They would be forced to undergo the difficult, protracted and costly procedure of cancelling their former citizenship. For example, in the case of Uzbekistan, whose citizens constituted more than three quarters of those belonging to the second group, this required that one appear in person at the embassy in Kyiv, took up to a year, and cost US \$100. Such a sum was prohibitive for most returnees, who often had neither housing nor a job. The total sum, which was required to pay for all the returnees' renunciation, would have exceeded all funds planned for their resettlement and integration on the peninsula in the 1997 budget.⁴⁵¹

In his letter, the High Commissioner also argued that while the wish of the Ukrainian government to avoid double citizenship was understandable, the formula proposed by the draft law would cause "considerable difficulties" for the returnees who had already arrived on the peninsula. (On the other hand, he considered it legitimate to apply the formula to those Crimean Tatars, who wished to leave their current state of residency in the future.) In addition to the above factors of time and money, the HCNM pointed to the fact that, during the period between renunciation of previous citizenship and acquiring a new one, the persons concerned would be stateless. He therefore called for Ukraine to fulfil its commitment according to the CIS declaration on migration issues adopted in May 1996 and take "appropriate measures at the national and international levels to prevent and reduce statelessness, particularly concerning persons residing permanently on [its] territory". The HCNM instead suggested a formula, which, "on the one hand, can be effective in preventing double citizenship, but which on the other, would provide an easier solution for the Tatars".⁴⁵² This formula appeared to be a more detailed modification of the one he had suggested in his letter of October 1995, namely that

⁴⁴⁸ Interview with Brytchenko, 18 October 1999. It should be noted that the stamping of Soviet passports with the new state's name, the only procedure certifying Ukrainian citizenship that was imposed prior to a process of passport change, was not a legal precondition for having citizen's rights. The same was true later for Ukrainian passports.

⁴⁴⁹ Only an insignificant number (less than one hundred persons) of those Crimean Tatar returnees who had not been granted Ukrainian citizenship automatically managed to acquire it by 1996. Abdureshitov 1996.

⁴⁵⁰ Brytchenko 1999, pp. 15ff.

⁴⁵¹ Pointing to this fact, the deputy of the Crimean parliament, Lennur Arifov, objected to the statements of Ukrainian officials and UNHCR experts at a round table in Geneva in December 1996, who claimed that a revised law would remove tensions related to the citizenship problem. Arifov believed that tensions were growing, as the proposed draft did not take the returnees' interests into account. Kurshutova 1996.

⁴⁵² Letter by van der Stoep to Udovenko, 14 February 1997.

all Crimean Tatars without Ukrainian citizenship who will have arrived in Crimea prior to the coming into force of the new Law on Citizenship (...) will all be [g]ranted the citizenship of Ukraine provided that they submit an application requesting this accompanied by a formal declaration of renunciation of the citizenship of the country from which they had returned to Crimea. (...) In this way there would be no period of statelessness, and the long waiting period between the moment of application and the moment of acquiring citizenship could be considerably shortened. In order to counteract the risk of cheating, a provision could be included in the law that false information about previous citizenship will lead to the loss of Ukrainian citizenship. In order to respect the interests of the states from which Crimean Tatars falling under such an arrangement have returned, a list of those who have renounced their citizenship could be dispatched to the Government concerned.⁴⁵³

The latter measure should suffice, insisted the High Commissioner, arguing that

[i]t would even be contrary to the letter and the spirit of the Universal Declaration [of Human Rights] to make the acquisition of Ukrainian citizenship dependent upon the determination of another state to agree to and to facilitate renunciation.⁴⁵⁴

Despite all his arguments regarding the returnees' difficulties and Ukraine's international commitments, Kyiv was not ready to accept the proposed formula. The main obstacle was that legislation of the relevant states did not provide for the possibility of cancellation of a person's citizenship on the basis of his or her declaration of renunciation. If only for financial reasons (in the case of Uzbekistan, the sum involved amounted to more than US \$6,000,000), those states were not inclined to simply dismiss the Tatars who were already residing in Crimea. Moreover, they did not want to stimulate by a simplified procedure further repatriation of the former deportees, which would mean the loss of a qualified labour force. Therefore, the respective authorities would not probably even consider such a declaration. The result would be double citizenship, which Kyiv wished to avoid at all costs.⁴⁵⁵ However, the HCNM's insistence on the inadmissibility of increasing the number of stateless persons was an important argument. It was taken into account in the final, if not comprehensive, arrangement made in 1998, although it did not involve implementation of the formula he had repeatedly suggested.

So far, Udovenko could only assure the HCNM in his reply that the recommendations would be "thoroughly considered by our experts and taken into account in an extensive work being done in this field both by the executive and legislative authorities of Ukraine", and reiterate Kyiv's priorities with regard to the citizenship problem and the High Commissioner's involvement therewith. He appreciated van der Stoep's "principal position concerning the necessity of having a single citizenship in Ukraine, as well as avoiding the cases of dual citizenship and statelessness". Moreover, he stressed a point which the HCNM had chosen to omit in his last letter, namely that "the legislative measures constitute one of the aspects of resolving the problems of the deported peoples. Appropriate financial and other resources, including those from the international community, would facilitate Ukrainian efforts to ensure the enjoyment of rights by such new citizens."⁴⁵⁶

3.9 Measures Taken by Ukrainian Authorities to Solve the Citizenship Problem (1997 - 2001)

On 27 February 1997, less than two weeks after the HCNM had sent his letter to the Ukrainian foreign minister, the Verkhovna Rada considered the revised law on citizenship in the second reading. Some Russophone deputies resolutely objected to a provision stating that those applying for citizenship, according to the procedure of naturalisation (rather than that of determination of possession of citizenship), had to demonstrate knowledge of the state language sufficient for everyday communication. Because of these objections, the draft was not approved in full.⁴⁵⁷ It was, therefore, only during the third reading on April 16 that the law, containing the long-awaited amendments of importance for the

⁴⁵³ Ibid.

⁴⁵⁴ Ibid.

⁴⁵⁵ Interview with Brytchenko, 18 October 1999.

⁴⁵⁶ Letter by Udovenko to van der Stoep, 25 March 1997.

⁴⁵⁷ Katsman 1997.

former deportees, was finally adopted. According to the new law, which came into effect on 20 May, persons originating in Ukraine, i.e. those who had been born or used to live there, as well as their children and grandchildren, were granted the right to acquire Ukrainian citizenship by means of a simplified procedure, regardless of their reason for having left the country. Former deportees could thus become citizens by simply submitting an application by the end of 1999, provided they did not have the citizenship of another country.⁴⁵⁸ As noted above, the number of returnees who fell into this category amounted to nearly a quarter of all non-citizen deportees. However, only 10 to 15 per cent of them had acquired citizenship by the beginning of 1998, and less than half had done so by the end of that year. One of the main reasons for this was the Tatar masses' lack of awareness of the newly presented opportunity. International institutions, including the OSCE Mission and the UNHCR, made a considerable effort to provide returnees with information, but bemoaned the fact that insignificant efforts were being made by the Mejlis and its local branches.⁴⁵⁹

At the same time, a way had to be found for the remaining three quarters of the returnees to be able to apply for Ukrainian citizenship.⁴⁶⁰ The Mejlis leadership, interested in granting citizenship to all the Crimean Tatars as soon as possible, called for radical measures to urgently solve the problem. This was especially important to them in view of the coming election of spring 1998, where the citizenship issue would determine the prospects and strength of the Tatar representation in the autonomy's Rada and local self-government bodies. The Crimean Tatars petitioned for inserting in the citizenship law a provision that would enable the former deportees to acquire Ukrainian citizenship "without introducing any prohibitive procedures"⁴⁶¹. This campaign, however, failed to influence the attitude of parliamentarians. The Mejlis then raised the demand that President Kuchma grant citizenship to all the returnees at once with his decree. The authorities argued, however, that such a decree would be "legal nonsense" because international law did not provide for granting citizenship to a person without his/her individual will, which had to be demonstrated by the act of application.⁴⁶² Therefore, the Mejlis addressed international institutions, including the HCNM, calling for their assistance in helping returnees with the acquisition of Ukrainian citizenship and the cancellation of former ones.⁴⁶³ Even so, the Mejlis leaders insisted that the problem of the former deportees' citizenship was an "internal [one] and it should not be connected to a position of Uzbekistan".⁴⁶⁴

The government, in contrast, saw no other way than to try to influence such a position. In October 1997, the Ukrainian foreign ministry sent a note to its Uzbek counterpart, calling for negotiations on possible measures of the two governments to solve the problem. While the Uzbek leadership was at first, for the reasons mentioned above, reluctant to contribute to the cancellation of the former deportees' citizenship,⁴⁶⁵ two factors later urged them to change their attitude. First, the Mejlis' efforts to draw international attention to this and other evidence of the violation of Crimean Tatar rights resulted in pressure from a number of institutions. In particular, of considerable importance were the appeals of the HCNM and the UN High Commissioner for Refugees Sadako Ogata to the government of

⁴⁵⁸ *Zakon pro hromadianstvo* 1997. See also comments of a senior governmental official: Chalyi 1997.

⁴⁵⁹ Aliadinova 1998a; Dzhemileva 1998c; Tyshchenko/Pikhovshek 1999, p. 227.

⁴⁶⁰ It is true that the new law mentioned a possibility for an applicant to submit a declaration renouncing, instead of a certificate cancelling, former citizenship, provided that "a person having all the grounds to get such a document, as stipulated by the legislation of that state, is not able to get it for serious reasons which do not depend on him/her". *Zakon pro hromadianstvo* 1997, art. 34. This provision can be seen as implementing the HCNM's recommendation, though with a modification aimed at really taking the interests of relevant states into account. It proved inefficient, however, as it was precisely the difficult procedure of cancellation, stipulated by the legislation, that prevented former deportees from getting a certificate. Therefore, not a single applicant managed to present sufficient proof of being unable to obtain a certificate in order to be granted Ukrainian citizenship on the basis of a declaration. Interview with Brytchenko, 18 October 1999.

⁴⁶¹ Such an amendment was demanded, among other measures, by an appeal to the Ukrainian president and parliament, the UN Commissioner on Human Rights and the OSCE. This was initiated by the Mejlis in January 1997, and signed by roughly a hundred thousand peninsular Tatars. Aliadinova 1997; *Obrashchenie krymskotatarskogo naroda* 1997; *Doklad Mustafy Dzhemileva* 1997.

⁴⁶² Dzhemileva 1998a (the president's representative in the ARC Vasyli' Kyseliov quoted). Kyseliov instead suggested that the Mejlis initiate a petition to the Uzbek president, calling for him to exempt the former deportees from a cancellation fee with his decree. Chubarov argued that such an appeal to another state's president would be a "shame on Ukraine". Dzhemileva 1998b.

⁴⁶³ Aliadinova 1998b.

⁴⁶⁴ Dzhemileva 1998c (Chubarov quoted).

⁴⁶⁵ According to Kyseliov, there was no reply to the note by mid-February 1998. Kiselev 1998.

Uzbekistan.⁴⁶⁶ Second, one can assume that the Uzbek leadership wanted to eliminate the problem, for it would stand in the way of the so-called strategic partnership being established between Tashkent and Kyiv. Such a partnership was to be based on their opposition to Moscow's domination in the CIS, and their mutual interest in an alternative transportation route (i.e., one not crossing Russian territory) for Caspian and Central Asian oil. The visit of Uzbek President Islam Karimov to Kyiv in February 1998 gave a considerable impulse to finding a mutually acceptable solution. This was demonstrated by the insertion of a provision on the facilitation of "solving the problems of the voluntary return of deported persons to Ukraine" in a new all-embracing treaty on friendship and mutual co-operation between the two countries.⁴⁶⁷ The impulse was further strengthened by the wish of the Ukrainian authorities to appease the Tatars after they had responded to Kyiv's failing to ensure their representation in the Crimean Rada with a vehement protest campaign (see section 3.10). Two rounds of negotiations between Ukrainian and Uzbek experts took place in March and May, during which a mechanism for simplifying the former deportees' change of citizenship was elaborated.⁴⁶⁸ However, it took a few more months before an agreement on the matter was finally reached.

On 31 July, the president of Uzbekistan issued a decree introducing a temporary procedure for registering the cancellation of the former deportees' citizenship.⁴⁶⁹ In August, the Uzbek and Ukrainian foreign ministries exchanged notes, wherein an inter-governmental agreement was constituted. This provided for a long-awaited solution to the problem of citizenship of all deported persons and their descendants who "expressed their wish to return from the Republic of Uzbekistan to Ukraine".⁴⁷⁰ According to the agreement, which came into force on 4 September 1998 and was initially valid until the end of 1999, all former deportees, as well as their children and grandchildren,⁴⁷¹ were given the opportunity to cancel their Uzbek citizenship. They could obtain a certificate of cancellation of citizenship (or of non-possession of citizenship) in no more than six months, half the time it took before, and without a fee. Upon receiving the cancellation certificates from the Uzbek party, the Ukrainian authorities were to apply the procedure of determination of possession of Ukrainian citizenship to those persons, in accordance with the law of April 1997. Returnees did not need to appear in person at the Uzbek embassy, as interior authorities on the peninsula accepted their applications for both cancelling and acquiring citizenship. The paperwork was then sent, via the foreign ministries' mediation, to relevant authorities in Uzbekistan. Moreover, the right to change citizenship in this way was not only granted to the deportees already residing in Ukraine, but also to those who wished to do so in the future. The latter were, upon obtaining a cancellation certificate, to apply at the Ukrainian embassy in Tashkent. A further important fact was that the parties agreed to make the date of cancellation of Uzbek citizenship and determination of possessing Ukrainian citizenship coincide. This eliminated the possibilities of causing double citizenship or statelessness.⁴⁷² The HCNM accepted the agreement "with great satisfaction". In a public statement of 21 August, the only one during his involvement in Ukraine, he argued that it "represents another important step in promoting the process of reintegration of the formerly deported people, and is an excellent example of the co-operation between the two Governments, UNHCR, IOM and OSCE."⁴⁷³

Although the Ukrainian authorities, with considerable assistance of the UNHCR office, managed to create good conditions for the implementation of the agreement, the crucial factor of success was the potential applicants' activity, which appeared again to be rather low. At the termination of the agreement's validity, only nearly 32,000 persons, roughly half of those who used to be Uzbek citizens, took advantage of the simplified procedure. As a result, 86.2 per cent of all returnees had become Ukrainian

⁴⁶⁶ On 15 January 1998, van der Stoep visited Geneva and held a meeting with Ogata. Soon thereafter, both High Commissioners sent letters to the foreign minister of Uzbekistan, urging his government, in co-operation with the Ukrainian one, to establish a simplified procedure which would allow deportee citizens of Uzbekistan to change over to Ukrainian citizenship. OSCE Newsletter, 1/1998; 2/1998.

⁴⁶⁷ Dohovir mizh Ukrainoiu ta Respublikoiu Uzbekystan 1998, art. 18.

⁴⁶⁸ Chalyi 1999, p. 7.

⁴⁶⁹ Brytchenko 1999, p. 19.

⁴⁷⁰ Nota MID Uzbekistana, 4 August 1998; Nota MZS Ukrainy, 17 August 1998.

⁴⁷¹ Exceptions included persons under criminal investigation or in jail, those having unfulfilled commitments to the state, those who had property commitments to any owners and persons whose cancellation of citizenship "contradicts the interests of the state security of the Republic of Uzbekistan". Nota MID Uzbekistana, 4 August 1998, art. 3.

⁴⁷² Brytchenko 1999, pp. 18-21.

⁴⁷³ Quoted in: OSCE Newsletter, 8/1998, p. 7.

citizens.⁴⁷⁴ While the UNHCR representatives argued that the Mejlis had to use its "sufficient leverage of influence" on the Tatar masses on the peninsula more actively,⁴⁷⁵ the Mejlis drew attention to the allegedly unfavourable conditions for acquiring Ukrainian citizenship by the Crimean Tatars in Uzbekistan. It accused the Uzbek authorities of creating obstacles to those willing to change their citizenship.⁴⁷⁶ Although Ukrainian officials refuted such accusations,⁴⁷⁷ Kyiv initiated a prolongation of the simplified procedure, and during Kuchma's visit to Uzbekistan in October 2000, a new agreement was signed.⁴⁷⁸ At the same time, the Ukrainian government was making an effort to conclude more all-embracing agreements with other CIS states which would provide for a simplified procedure of the citizenship change, not only for the former deportees, but for all former residents of Ukraine (and their descendants) returning to the country. The first of such agreements was concluded in May 2000 with Kazakhstan. Considerable progress had also been achieved by the end of the year in negotiations with several other governments, including those relevant to the problem of the Tatars' citizenship. Finally, a new citizenship law was adopted by the Verkhovna Rada on 18 January 2001, which, in accordance with the European Convention on Citizenship, took a much more liberal approach regarding possible cases of double citizenship. Instead, the law was more preoccupied with avoiding statelessness. Accordingly, it did not strongly insist on the cancellation of a person's former citizenship as a precondition for acquiring the Ukrainian one. It also envisaged the possibility for replacing it with a declaration of renunciation, which the HCNM had suggested for several years.⁴⁷⁹

Meanwhile, the Mejlis leadership preferred to focus on problems where Kyiv's political support had yet to be demonstrated. As Jemilev argued in May 1999, "[T]he issue of Crimean Tatars' acquiring Ukrainian citizenship is already far from being the main problem of the deported people. (...) It is the problem of representation of the Crimean Tatar people in the Verkhovna Rada of Crimea and all branches of the executive".⁴⁸⁰

3.10 Controversies over the Crimean Tatar Representation

The Mejlis' demand regarding the representation of the Tatars in the Crimean power bodies, however, was never met even in part. Influential forces not only in Simferopol, but also in Kyiv appeared to be interested in blocking any move in that direction. The interaction of conflicting strategies of the Ukrainian executive, the leftist forces in the Verkhovna Rada and the autonomy's leadership resulted in the exclusion of all possible ways to solve the problem, including those suggested by the HCNM.

In his letter of 14 February 1997, van der Stoel repeated his frequent argument that a formula had to be found which would ensure the Tatars "a number of seats in the future Crimean Parliament broadly commensurate to their percentage of the total population of the ARC", with a parallel arrangement for other formerly deported ethnic groups.⁴⁸¹ Writing well before the adoption of new Ukrainian laws on national and local elections, the High Commissioner stressed that the current electoral system of Ukraine, if applied to the election of the autonomy's parliament, would in all likelihood lead to no representation of the Crimean Tatars and other former deportees. He therefore recommended either prolonging the quota arrangement, or introducing a proportional system in the Crimean elections. It should be noted that the High Commissioner fell short of supporting the Kurultai/Mejlis' demand that the Tatars be granted guaranteed representation in the Ukrainian parliament, as well as in local self-government bodies. At the same time, van der Stoel pointed to a prohibitive requirement of the Ukrainian legislation, which stated that political parties had to be registered in at least half of the oblasts. He argued that it had created "very difficult problems for the Crimean Tatar community", as

⁴⁷⁴ Semena 2000.

⁴⁷⁵ Aliadinova 1998d (head of the UNHCR office in Ukraine Jozsef Gyorke quoted). In what may have been a response to this criticism, the Mejlis passed in January 1999 a resolution on the activation of its effort. Postanova 1999.

⁴⁷⁶ Adil'-oglu 1999; Otchetnyi doklad predsedatelia Medzhnisa 1999.

⁴⁷⁷ Chilingirova 1999.

⁴⁷⁸ Khalilova 2000. The agreement was valid until the end of 2001.

⁴⁷⁹ Zakon 2001, arts. 1, 2, 8, 9; interview with Brytchenko, 19 January 2001. Contrary to the law of 1997 (see fn. 460), the new one (art. 1) admits that a person may be unable to get a certificate of cancellation (and thus allowed to submit a declaration) because of the high costs of cancellation demanded by the respective country's legislation.

⁴⁸⁰ Zolotukhina 1999.

⁴⁸¹ Letter by van der Stoel to Udovenko, 14 February 1997.

well as for a number of peninsular political parties.⁴⁸² This requirement was intended to prevent separatist activities by prohibiting regional parties that were inclined to care for the interests of their region only. The central authorities therefore insisted on making national, rather than regional, parties and blocs the primary actors in the electoral process at both the national and the autonomy level. As for Crimean Tatar representation, it no doubt required legalisation of their ethnic, and given their settlement almost exclusively on the peninsula, regional organisations as subjects of the process. This could be done, for example, by recognising such groups (including the Kurultai) as 'election associations'. As mentioned above, the Crimean parliament had refused to do this in November 1995, and the HCNM had proposed it in April 1996. Contrary to the latter recommendation, aimed at making an amendment in the constitution of the ARC, the new one, although not explicitly formulated, implied a respective provision in the Ukrainian election legislation. The shift of an addressee, however, did not help to avoid a repeated failure.

On 13 July 1997, when the Ukrainian parliament started considering a draft law on the autonomy's representative body that was proposed by the president, a group of deputies from the peninsula presented an alternative draft. Besides granting more powers to the body, the alternative bill provided for a different system for electing the Rada. The president's draft stipulated a majoritarian system, with additional constituencies for the formerly deported ethnic groups. In contrast, those who did not want to enable an electoral role of an "illegal formation, the Kurultai and its Mejlis", proposed a mixed system with equal parts of deputies to be elected in majoritarian constituencies and on party lists. After the alternative draft received support that was twice as strong as that of the executive's draft, though insufficient to be adopted in the first reading, the session instructed relevant committees to elaborate a single draft on the basis of the two.⁴⁸³ The draft, which was presented to the deputies on 19 December, envisaged a mixed system and made no reference to special ethnic constituencies. As even nationalist deputies failed to insist on taking the deportees' interests into account, the draft was adopted in the first reading. A week later, it was passed in full, together with an additional law stipulating a procedure for electing the autonomy's Rada.⁴⁸⁴

In late January 1998, the president, however, vetoed the former law, and suggested a number of amendments to the latter. He objected to the introduction of a mixed system in the peninsular elections. His argument was that competition between Ukrainian parties would not contribute to the consolidation of Crimean society, nor result in agreement between its different nationalities. Kuchma also insisted on including a provision on establishing smaller constituencies in the areas of the deportees' compact settlement.⁴⁸⁵ An underlying conflict was connected with the executive's fear of a crushing victory of the peninsular communists in the case of a party election. On the other hand, a majoritarian election would give a chance to nominees of the authorities. For the same reason, the leftist factions of the central parliament were interested in a (half-)proportional system. Also, they insisted on holding Crimean elections simultaneously with Ukrainian-wide ones, in a hope of a higher turnout, which would ensure the election of more leftist candidates. In contrast, the presidential camp may have been interested in postponing the peninsular elections. The question of Crimean Tatar representation was of secondary importance for both parties, even though solving it surely contributed to the success of the executive's strategy and hindered implementation of the leftist one.

Eager not to lose an opportunity to hold the Crimean elections on 29 March, the left-wing factions, after their repeated attempts to overcome the presidential veto had failed, had to agree with Kuchma's suggestions on both laws, in particular with the suggestions regarding the majoritarian system. On 10 and 12 February, respectively, the laws were passed in a revised form. Although the provision on smaller constituencies for the deportees was not incorporated, the president, after his primary demand had been met, preferred to sign the laws.⁴⁸⁶ The Mejlis responded with a resolute statement which qualified the laws as an "act of continuing discrimination of the Crimean Tatar people", a

⁴⁸² Ibid.

⁴⁸³ Vos'ma sesiia VRU, Bulletin No. 49, pp. 3-54 (quote on p. 24). On 19 June, the Crimean deputies submitted their own draft providing for a mixed electoral system with no special constituencies. Krymskaia pravda, 20 June 1997, p. 1.

⁴⁸⁴ Vos'ma sesiia VRU, Bulletin No. 74, pt. I, pp. 4-28.

⁴⁸⁵ Golos Kryma, 30 January 1998, p. 1.

⁴⁸⁶ Dev'iata sesiia VRU, Bulletin No. 8, pp. 7-48; Bulletin No. 12, pp. 43-59; Korobova 1998a.

demonstration of the "chauvinist moods" of most deputies of the Ukrainian parliament and as ignoring the recommendations of international organisations, including those of the HCNM. The Mejlis declared the initiation of "actions of effective protest against the discrimination" and measures to draw international organisations into solving the problem. They also threatened to "block the elections" in Crimea if the interests of the Tatars were not taken into account.⁴⁸⁷ A rally campaign was launched on the peninsula.⁴⁸⁸ Also, the Mejlis appealed to "the Ukrainian democracy" to use all possible means to make the parliament and president provide for the Crimean Tatars' "equality with Ukraine's citizens enjoying full rights".⁴⁸⁹

One of the factors that prevented the Tatars from being adequately represented in the autonomy's Rada and local self-government bodies was the denial of Ukrainian citizenship to a considerable part of the returnees. The Mejlis demanded, as noted above, that all returnees be granted citizenship, provided they renounce their former one. Both the executive and legislature, although they were not going to meet this demand, sought to prevent protesting and blocking actions of the Tatars and criticism on the part of international organisations. Therefore, influential actors in both branches, including the Ukrainian parliament's speaker Moroz and the presidential representative in the ARC Kyseliov, suggested further amendments to the law on electing the Crimean Rada. The aim was to partly solve the problem by allowing non-citizen residents to vote.⁴⁹⁰ In a telephone conversation with Chubarov on 23 February, van der Stoel supported the idea that Crimean Tatar participation in the election was to be based on the resident registration.⁴⁹¹ The president proposed to grant the electoral right to stateless deportees only. Some deputies, as different from each other as those representing the peninsula and members of the Rukh faction, called for extending this right to all the returnees, as well as applying it to Ukrainian-wide and local elections, in addition to Crimean ones. However, when the parliament considered this question on 24 March, the communists and some other factions prevented even the most modest proposal from being adopted. Notwithstanding references to the inadmissibility of creating a precedent of "ignoring the Constitution by the legislative", their political interest was clear. Rivals of Rukh and the peninsular centrist parties, which the Tatars would have probably voted for in the Ukrainian and Crimean elections, did not want to allow them to obtain 90,000 more votes, as one of the proponents bluntly commented.⁴⁹²

As soon as the parliamentary decision became known in Crimea, the Tatar mass demonstrations started in Simferopol and other places. The communist party's office was attacked, and several attempts were made to block highways and railways, finally leading to clashes with the police.⁴⁹³ In order to prevent the Crimean Tatars from blocking the election, additional police units were sent to the peninsula from other parts of Ukraine on the eve of 29 March. The elections proved even worse than the Mejlis expected. None of its nominees were elected, and the only Crimean Tatar deputy in the new autonomy's Rada was a nominee of the communist party. The authorities stated that the Tatars themselves were partly to blame, as they had failed to agree on a single candidate for each constituency, and rivals therefore took returnee votes from each other.⁴⁹⁴ At the same time, the Tatar protests again made the Ukrainian leadership pay more attention to their plight. After Kuchma's visit to the peninsula in April, a working group was established to suggest solutions to various problems that were connected to Crimean Tatar resettlement and integration. The group was composed of officials of the presidential administration and the Crimean government, as well as representatives of the Tatars, including the Mejlis' members.⁴⁹⁵ Kyseliov, who became the group's deputy head, told the HCNM in mid-May that the president was going to call the parliament to hold a by-election to the Crimean Rada

⁴⁸⁷ Zaiavlenie Medzhilisa, 16 February 1998.

⁴⁸⁸ Aliadinova 1998c.

⁴⁸⁹ Obrashchenie Medzhilisa, 27 February 1998.

⁴⁹⁰ Golos Kryma, 20 March 1998, p. 1; Korobova 1998b.

⁴⁹¹ Holos Ukrainy, 25 February 1998, p. 3.

⁴⁹² Dev'iata sesii VRU, Bulletin No. 20, pt. I, pp. 49-68 (quote on p. 57). A Crimean centrist block, headed by Demydenko and Kunitsyn, also called for ensuring deportee representation. Golos Kryma, 27 February 1998, p. 1.

⁴⁹³ Korobova 1998b; Aliadinova/Terlekchieva 1998.

⁴⁹⁴ Kemalova 1998b; interview with Bilukha, 20 October 1999. It is true that the Crimean Tatar movement became less consolidated after a conflict in the Mejlis, resulting in the exclusion of Dzhemilev's opponents by an extraordinary session of the Kurultai in December 1997. Tyshchenko/Pikhovshek 1999, pp. 188ff. However, it is not clear how important this factor was in the election results.

⁴⁹⁵ Kemalova 1998a.

which was intended to ensure deportee representation.⁴⁹⁶ However, no presidential appeal followed. In late July, the Mejlis argued that the group had failed to make a significant contribution to solving the Crimean Tatar problems.⁴⁹⁷

Meanwhile, a partial compensation for the lost representation in the autonomy's Rada appeared to be the election of two Tatar key figures to the Ukrainian parliament. Jemilev was included in the Rukh list, and Chubarov won in a majoritarian constituency.⁴⁹⁸ Accordingly, the Mejlis' leaders had more opportunity to discuss the Tatar problems with relevant politicians and officials in the capital. They could also lobby for the adoption of laws intended to guarantee the rights of their people. However, the new status did not help them prevent the Verkhovna Rada from putting into force the autonomy's constitution of October 1998, which failed to meet any of the demands for which the Kurultai faction had struggled in the former Crimean parliament and, by the same token, to implement any of the HCNM's relevant recommendations. As noted above, the constitution did not mention the special status of the Crimean Tatar language, and only granted it minimal rights. No reference was made even to the possibility of guaranteed representation of the Tatars (or all the former deportees) in the autonomy's and local bodies. Needless to say, the status of the Crimean Tatars as the indigenous people, or of the Kurultai and Mejlis as their representative bodies, was not recognised.⁴⁹⁹ The new head of the Crimean Rada, Leonid Hrach, insisted that stipulating representation quotas was out of the question, even though nationalist deputies in the Ukrainian parliament refused to support the autonomy's constitution, unless the rights of the Crimean Tatars were protected. This was one of the reasons for its failure in the first vote on 15 December. A week later, however, the opposition in the Verkhovna Rada became weaker after Hrach had agreed to expunge an article on the right of the Crimean representative body with regard to the autonomy's government.⁵⁰⁰ Although Kuchma had earlier argued that a provision on the Tatar representation had to be included in the autonomy's constitution, a lack thereof did not make him veto the law on approval of the constitution.⁵⁰¹ The approval thus appeared to be a compromise between Kyiv and Simferopol, at the cost of the interests of the Crimean Tatars.

In May 1999, another wave of mass protests urged the Ukrainian leadership to take some further steps aimed at solving the Crimean Tatar problems. Alongside increasing budgetary expenses for the returnee resettlement, Kyiv finally met one of the Tatar political elite's principal demands by accepting one possible form of recognising the Mejlis. On 18 May, on the anniversary of the deportation, Kuchma issued a decree establishing a Council of Representatives of the Crimean Tatar People, which was to be headed by Jemilev and consist of all those who were members of the Mejlis at that time. This solution came close to the formula that the HCNM had suggested in February 1997. Although the principle of forming the body was not stipulated in the text, as only names were given in an attached list, its establishment was justified, *inter alia*, by an "uncertainty regarding a legal status of the Mejlis elected by the Kurultai of the Crimean Tatar people". A reference was thus made to the representative nature of the two bodies. While the move was presented as aiming to solve political, social and cultural problems connected with the integration of "the deported Crimean Tatar people" into Ukrainian society, the council's tasks were to be elaborated in detail in its statute.⁵⁰² As a compromise solution to the problem of its legalisation, the Mejlis accepted the council. However, the new body remained on paper for almost a year because of the controversy over how it should be formed. The Mejlis insisted on having its members elected by the Crimean Tatar people, with subsequent approval by presidential decree. The executive, on the other hand, argued that the president had no right to form representative bodies, and could only appoint the council.⁵⁰³ Its statute, providing for presidential approval of candidates proposed by the council's head, was finally approved on 7 April 2000.⁵⁰⁴ This took place two

⁴⁹⁶ Kemalova 1998b.

⁴⁹⁷ Obrashenie Medzhlisa, 26 July 1998.

⁴⁹⁸ At the same time, nearly 600 Crimean Tatars were elected to the local self-government bodies. Golos Kryma., 8 May 1998, p. 1.

⁴⁹⁹ Konstytutsiia Avtonomnoi Respubliky Krym 1998, arts. 10-14, 22.

⁵⁰⁰ Golos Kryma, 18 December 1998, p. 1; Aliadinova 1998e.

⁵⁰¹ Uriadovyi kur'ier, 19 August 1997, p. 2.

⁵⁰² Ukaz Prezidenta Ukrainy, 18 May 1999.

⁵⁰³ Kas'ianenko 2000a. According to the head of the presidential administration, Volodymyr Lytvyn, the Mejlis also insisted on including in the council's tasks (participation in) solving the problems of rehabilitation of the Crimean Tatar people, and the restoration of their rights. This formula was unacceptable for the executive. Bulat 2000a.

⁵⁰⁴ Ukaz Prezidenta Ukrainy, 7 April 2000.

days after the Parliamentary Assembly of the CoE had made a special recommendation on the Crimean Tatar problem, which had called, in particular, for "securing the effective representation of the Crimean Tatars in national, Crimean and local public affairs".⁵⁰⁵ On 11 May, the council held its first session. Kuchma, Hrach and high officials of the Ukrainian and Crimean governments participated, which gave the Tatars not only a symbolic demonstration of the authorities' attention to their demands, but also some prospects of finding a solution for several pressing problems.⁵⁰⁶

Another one of Kuchma's promises of May 1999, a special hearing on the Crimean Tatar problem in the Verkhovna Rada, was implemented no sooner. The hearing could not take place in the fall of the same year, as had been planned, because the leftist speaker Oleksandr Tkachenko opposed the idea. After the formation of the right-centre (pro-presidential) majority and the change of the parliamentary leadership in February 2000, the hearing was finally held on 5 April. The Mejlis' insistence on the necessity to legislatively protect the rights of the Crimean Tatar people as well as other formerly deported groups was supported by high officials of the Ukrainian and Crimean governments, and by nationalist/rightist deputies of the Verkhovna Rada. Recommendations, approved two weeks later, called for the adoption of laws which would implement constitutional provisions regarding indigenous peoples and national minorities and secure the rights of the Crimean Tatars and other returnees. A number of practical measures aimed at securing these rights was also stipulated.⁵⁰⁷ However, opposition from the leftist parliamentarians, among others, resulted in the exclusion of a provision that recommended the adoption of a law on the status of the Crimean Tatar people in Ukraine. More recently, such a law has been considered by the Mejlis as a preferable way of ensuring that guaranteed representation, even overrepresentation, of the Tatars in the autonomy's and national representative bodies, as well as other institutions of power be fixed in the Ukrainian and, consequently, Crimean legislation.⁵⁰⁸ However, it has not been adopted by the latest membership of the Verkhovna Rada, which worked until spring 2002. It is not clear if the new parliament appears to be more willing to meet the Mejlis' demand.

More realistic prospects of solving the most prominent aspect of the representation problem, namely, ensuring that Crimean Tatar deputies are present in the autonomy's Rada, seemed to be amending the law on the Rada and providing for a proportional system in its election. Not only advocates of the Tatars' ethnic rights favoured this idea, but also many of their opponents who were ready to accept it as a compromise solution to the protracted controversy.⁵⁰⁹ However, the Ukrainian parliament rejected all drafts of a new law, and the Crimean election of spring 2002 took place according to the old law providing for a purely majoritarian system. Moreover, the autonomy's electoral commission failed to take the Tatar interests into account while re-defining constituencies, despite the proposal of the presidential representative in the autonomy to draw their lines in a way that would make concentration of the Tatar population in some of them sufficient for electing their representatives to the Rada.⁵¹⁰

Nevertheless, the results of the elections proved better than most observers had expected. Seven Crimean Tatars were elected to the autonomy's Rada. Although most of them were nominated by the Kurltai, their success was also, or even primarily, a result of their membership in influential all-Ukrainian parties and/or positions in the Crimean executive.⁵¹¹ The Tatar deputies were twice as few as they had been in 1994, too few to form a separate faction. However, the centrist deputies who had put an end to the communist domination in the autonomy's parliament, included the Tatar representatives in a

⁵⁰⁵ The recommendation invited the authorities in Kyiv and Simferopol to study experiences of other European states concerning the representation of minorities and indigenous peoples, as well as the public use of their languages, international documents, and in particular, the HCNM-initiated Lund and Oslo recommendations. These could be used for solving the Crimean Tatar problem. PACE recommendation, 5 April 2000.

⁵⁰⁶ Adil'-oglu 2000. Perhaps the most important problem by then was one which arose with the beginning of the long-postponed privatisation of the collective farms' land by their members, from which the returnees (most of whom had not gone back to those farms upon returning to the country) appeared to be virtually excluded.

⁵⁰⁷ Postanova Verkhovnoi Rady Ukrainy, 20 April 2000. Other provisions included, in particular, legislative acts on a simplified procedure of granting citizenship to returning deportees and measures to secure their rights in land and property privatisation.

⁵⁰⁸ A draft, elaborated by experts of the Ukrainian government and the Mejlis representatives, stipulated, in particular, that members of the indigenous peoples of Crimea should constitute no less than 20 per cent of the Autonomy's deputies and the same share of the staff of the local authorities and security service. Zolotukhina 1999.

⁵⁰⁹ Bulat 2000b.

⁵¹⁰ Spivdruzhnist' 2002a.

⁵¹¹ Spivdruzhnist' 2002b.

newly formed majority and allowed them to assume influential positions in the parliamentary presidium and the government. These developments can be considered evidence of remarkable progress of the Crimean Tatar integration into peninsular society. At the same time, they have little to do with the assertion of the indigenous people's ethnic rights which the Mejlis has been striving for during the period under consideration, with considerable support on the part the HCNM.

3.11 Conclusion

However, the latest developments took place after van der Stoel had left his office in June 2001. Until the very end of his involvement in the Crimean Tatar problem, he did not seem to change his approach and priorities significantly. After his recommendations of February 1997, the HCNM continued to visit Ukraine quite frequently. The situation of the Tatars was reportedly the primary subject of his talks with politicians and officials in both Kyiv and Simferopol in May and November 1997, May 1998, and April 1999.⁵¹² While sending no further letters to the Ukrainian government, he did not give up trying to urge the authorities to implement his earlier recommendations. He even urged the Crimean Tatars themselves not to give up,⁵¹³ thus helping them refrain from acts of alienation and radicalisation. This was especially important during the crisis of spring 1998, which was caused by the failure of the Mejlis' strategy to ensure continued Tatar representation in the autonomy's parliament.

The High Commissioner's insistence on the primary importance of citizenship and representation problems remained unchanged, although his views of possible ways of solving them were adjusted to the positions of key relevant actors to obtain possible solutions. As far as the citizenship problem is concerned, van der Stoel had to accept Kyiv's refusal to use the application-and-renunciation procedure. Instead, he had to focus on contributing to a success in the negotiations between Ukraine and Uzbekistan. Similarly, his strategy with regard to the representation problem took into account that since 1998, the Mejlis' dialogue with the authorities on political questions took place almost exclusively in Kyiv, due to the election of its two leaders to the Ukrainian parliament and the anti-Tatar orientation of the new Crimean speaker, Hrach. During his meeting with Jemilev and Chubarov on 21 April 1999 in Kyiv, the HCNM reportedly expressed his confidence that it would not be Hrach who would define the Ukrainian state's policy with regard to the Crimean Tatars. Instead, he suggested closer co-operation between the Mejlis and the presidential administration. He regretted the fact that, in spite of all his efforts, the autonomy's new Constitution did not contain provisions guaranteeing the rights of the Crimean Tatars. However, he hoped that the problem could be resolved with special Ukrainian laws or presidential decrees, thus accepting the recent shift in the Mejlis' strategy on the matter. A Tatar newspaper quoted him from a statement made to his interlocutors: "You know my attitude toward the problem of the Crimean Tatar people and can be sure of my permanent readiness to give you possible assistance".⁵¹⁴ If the quotation is correct, it reflects both the HCNM's support of Tatar demands to the extent where his position can be qualified as biased, and his feeling that he was unable to significantly contribute to getting those demands met.

The High Commissioner was more successful in mobilising international financial assistance for the implementation of the resettlement programme. In particular, he presided over two further donor conferences in Kyiv on 28 June 1998 and 6 December 2000, where a number of participating states made pledges.⁵¹⁵ Although greatly facilitated by van der Stoel's previous efforts, the process of rendering external support for meeting the social needs of the returnees was gaining its own momentum. This made the HCNM's active role unnecessary. Therefore, the HCNM's involvement in the Crimean Tatar problem virtually came to an end, even though its original causes had not been removed, and his recommendations had, to a large extent, not been implemented. In 2000, his attention shifted to the

⁵¹² OSCE Newsletter, 5/1997, p. 14; 11/1997, pp. 9-10; 5/1998; 4/1999. Although his further visit in September 1999 was not focused on the Tatar problem (see section 4.5), van der Stoel did discuss it with the Mejlis' leadership. OSCE Newsletter, 9/1999.

⁵¹³ Such an encouraging statement was reportedly made by the HCNM at his meeting with leaders of the Mejlis in May 1998. He argued that they should not stop their efforts in convincing the Ukrainian parliament to ensure the Tatar representation in the Verkhovna Rada of the ARC. Golos Kryma, 22 May 1998, p. 2.

⁵¹⁴ Ibid., 30 April 1999, p. 1.

⁵¹⁵ OSCE Newsletter, 6/1998; Sereda 2000; Golos Kryma, 15 December 2000, p. 1.

problem of linguistic rights of the Russophone population in Ukraine. This acquired new prominence, because Moscow used it as a means to pressure Kyiv.

Chapter 4. Linguistic Rights of Russians

The language policy of the Ukrainian government, which was intended to enhance the social role of the titular language and has been perceived by some Russian and Russophone citizens, as well as by their advocates in Moscow, as an infringement upon their linguistic rights, is the only field where the expedience of the HCNM's involvement may seem questionable. This argument has little to do with the author's belief that the idea of infringement has mostly been a result of the insistence on ensuring the rights of Russophones well beyond a point where it has meant disregarding those of Ukrainophones. What is important in assessing the expedience of conflict prevention are the perceptions of the relevant actors and their capacity to take action, as well as the conflict potential that may result from this.

On the one hand, state policies that were widely perceived as discriminating against the Russian-speaking population could evoke their active discontent and/or could be used by Moscow as a pretext to pressure Kyiv. It is likely that this would be resented by the latter, and could lead to the hardening of its line, as was the case with relations between the Ukrainian government and the Crimean authorities. On the other hand, given the very weak organisation of the group in question, critical perceptions could only become politically vocal, and thus relevant for the HCNM's involvement, if used and directed by the regional elites or the kin state. In the first years of independence while Moscow preferred to play the 'Crimean card' in its relations with Kyiv, elites of the East and South attempted to make use of, and instigate, popular discontent. Their aim was to wrest more powers from the centre. Later, however, as they were drawn into competition for power and influence on a national level and thus unlikely to provoke a protest on a regional level, the conflict potential significantly diminished. This was perhaps the primary reason for a long break in van der Stoep's (active) dealing with the problem. Five years later, when Russian authorities used it as a major means to pressure Ukraine, this reactivated the conflict potential, and hence the High Commissioner's involvement. At the same time, this demonstrated that the underlying ethno-political opposition, feeding the discontent and tension which had caused the initial addressing of the problem by the HCNM, had not been overcome. It is thus no less legitimate to question whether the HCNM's failure to make further efforts to facilitate overcoming this opposition, in the aftermath of his first attempt, was justified.

4.1 Language Policies and Russophone Discontent in 1992 - early 1994

As noted above, the independent Ukrainian state enabled its Russian(-speaking) population to largely retain the broad scope of linguistic and cultural rights they had earlier enjoyed as the dominant group in the USSR. Most Russians could use their language both as employees and customers, since the implementation of the language law, with provisions for increased utilisation of the Ukrainian language, remained limited in most fields. Their cultural demands were also met by the state, as well as in the market, to a much higher degree than those of other ethnic groups, including the titular one. It is true that, after 1989, the number of schools with instruction in Ukrainian gradually increased. However, by 1994 the share of pupils in Russian-language classes, with regard to all school children in the country, remained almost twice as high (43 per cent) as the percentage of Russians in the whole population. In the Donbas, this share exceeded 90 per cent. In Crimea, it was over 99 per cent. More than half of all students in institutions of higher education continued to be taught in Russian. Up until 1996, the main Russian TV channel, ORT, was fully translated in the whole territory of Ukraine. Programmes in Russian amounted to nearly two thirds of total airtime on Ukrainian TV and radio.⁵¹⁶ The advantaged position of the Russian language and culture partly stemmed from its domination during the Soviet decades and reflected the caution and inertia of the cultural policy of the Ukrainian state. At the same time, this advantage was, to a considerable degree, created by post-Soviet market competition. Not only did the Ukrainian-language culture have the weaker starting position, but also the Russian-language side of the competition was considerably strengthened by cultural products imported from Russia. However, the state failed to compensate for this disparity with measures of positive

⁵¹⁶ Solchanyk 2000, pp. 544ff; Mizhnatsional'ni vidnosyny 1995, pp. 14f, 32f.

discrimination, e.g. in taxation. As a result, the domination of Russian in book publishing and the mass media actually increased. In 1995, the share of books printed in Ukrainian was less than half of the total (taking books from Russia into account, the share of Ukrainian-language books on the book market was considerably lower). Ukrainian-language newspapers' total circulation was less than 40 per cent. Both figures were much less than they had been on the eve of independence.⁵¹⁷

While the language policy witnessed the reluctance of the former communist nomenklatura to fully embrace the nation-state model, which was suggested by the (former) nationalist opposition, the necessity to legitimise independence urged the authorities to accept the ideological paradigm of 'national liberation'. As a result, the nationalist vision of history was used in official propaganda and education, which portrayed anti-Ukrainian policies of the tsarist empire and the Soviet Union. The policy of the new Russia was qualified as being marked by the same 'imperial disease'. The top priority of Ukrainian foreign policy therefore had to be neutrality and, if possible, integration into European structures, as well as rejecting all attempts to transform the CIS into a state or a super-state formation. This propagandist and political anti-Russianness, even though moderate and oriented mostly against the state rather than the people, could only put the identity of Ukraine's Russians to the test.⁵¹⁸ As for the Russian-speaking Ukrainians, their right to preserve their linguistic and cultural identity was, in effect, denied by this propaganda. It portrayed them as victims, or even accomplices, of imperial policies, who were to be brought back to their 'native' language and culture, or 'de-Russified'.⁵¹⁹

Moreover, as mentioned above, one aspect of the minority policy consisted in treating the largest of minorities, at least in principle, like the other minorities. This meant an abrupt demotion of the Russians' formerly privileged status. Their exceptional scope of rights became illegal and could be denied at any time. In contrast with the language law and the declaration of nationalities' rights, the law on national minorities did not make any special exceptions for the Russian language based on its supposed inter-ethnic functions. It limited its official use to "places" with an ethnic Russian majority, that is, in effect, to Crimea only.⁵²⁰ As early as June 1992, an attempt was made to establish the 'truly national' church, which would be independent from the Russian one and use Ukrainian as the language of service. This was done by means of an arbitrary, state-supported proclamation of the autocephalous Patriarchy of Kyiv, which was to be the only recognised Orthodox confession in Ukraine. In essence, this de-legitimised the church that had remained faithful to Moscow and had retained Russian and the Church Slavonic language.⁵²¹ This unsuccessful attempt was dangerous, as it was a sign of a possible encroachment even on minority rights of the Russians. Such encroachment was also made possible by some legislative acts, adopted during the late- and first post-Soviet years. The laws on education, culture and television and radio, while declaring the minorities' right to get their respective demands met in their own languages, virtually limited these rights to regions where the minorities lived compactly. It thus made exercising these rights illegal for most Russians.⁵²² At the same time, inherent uncertainties and contradictions in the language law made it possible for central, and to a lesser extent local, officials to decide on relevant matters with discretion. In 1992-1993, the 'national democrat' leaders of the ministry of education, who preferred to treat the respective provisions in a prohibitive way, launched what appeared to be the largest-scale measure, and the most perceptible for the common people, among the measures aimed at the demotion of Russian to the status of a minority language. They announced the imminent bringing of the proportion of first-graders taught in various languages "into optimal concordance with the national composition of the population in each region". This primarily meant a drastic decrease in the share of schools where instruction was given in Russian. The right to higher education in Russian was called in question altogether. The process of the gradual transition in universities and institutes to the Ukrainian language took place, with no limits defined. Finally, Russophone Ukrainians were to be denied the right to get even primary education in their mother tongue, which was a clear violation of the language law provision on the free choice of

⁵¹⁷ Tomenko et al. 1998, pp. 213-214. See also: Solchanyk 2000, p. 546.

⁵¹⁸ Kulyk 1999, pp. 24ff, 34ff; Kulyk 1996, pp. 20ff. See also: Janmaat 2000, sec. 4.1.

⁵¹⁹ Although proponents of 'de-Russification' mostly rejected forceful means of its implementation, the term clearly implied such a possibility, which was taken for granted and then fiercely criticised by opponents of this course.

⁵²⁰ The lawmakers thus failed to keep their pre-referendum promise (in the above declaration) to extend the official use of non-Ukrainian languages to all places of the minorities' "compact settlement". Arel 1995b, p. 172.

⁵²¹ Yelens'kyi 1995, pp. 46f; Wilson 1997, pp. 162f.

⁵²² Zakon pro osvitu 1991, art. 7; Zakon pro kul'turu 1992, art. 4; Zakon pro telebachennia 1993, art. 9.

language of instruction. They were not even guaranteed the possibility to learn Russian in Ukrainian-language schools, as these schools could cease teaching the language that the valid law of 1989 had declared a compulsory subject, alongside Ukrainian.⁵²³

The Russian-speaking intelligentsia, especially teachers, whose social position was endangered by future 'Ukrainianisation', denounced Kyiv's policies as a gradual 'phasing out' of the Russian language and culture. Activists of Russian ethno-cultural associations expressed their disagreement with attempts to demote their group to the level of a minority, and with applying the term itself. Instead, they advocated the recognition of its autochthonous nature and a special status for its language and culture, which they believed to be a constituent one for the Ukrainian state, alongside that of the titular nation. Attempts were made to historically justify this claim with the premise that "the contemporary dual-language situation in Ukraine did not arise because of the Russification policies of tsarist bureaucrats, but has deep historic roots".⁵²⁴ However, those associations remained rather marginal and could not influence, not to mention mobilise, the masses. The masses were primarily preoccupied with economic problems, and mostly viewed the broader functioning of the state language as a natural process. The number of Russian-language schools sharply decreased in 1992-1993 in the western and central regions, with the percentage of first-graders dropping somewhere below the share of ethnic Russians in the local population. And even though the process was accompanied by considerable administrative pressure, it evoked no visible protests. In contrast, in the most Russified regions of the East and South where the ethnicisation of schooling meant that the language of instruction in half the schools would change (hence partially disqualifying nearly half of the teachers) and significant cultural distance made most of the parents reluctant to let their children be taught in Ukrainian, the change was very slow. Moreover, the local authorities were opposed to the idea of the 'de-Russification' of education and of other public areas. Therefore, they often sabotaged and even overtly protested against its implementation.⁵²⁵

⁵²³ Arel 1995b, pp. 174ff (quote on p. 174); Arel 1995a, pp. 606ff; Janmaat 2000, pp. 67f; Scheu 1997, pp. 79f.

⁵²⁴ Biletskyi 1997; Wilson 1997, p. 154 (quote).

⁵²⁵ Arel 1995b, pp. 174f; Beletskii 1993, p. 52. At the same time, Jackson argues that it was precisely a slow change and lack of pressure on the people that prevented language of instruction from becoming a major political issue in some eastern regions such as Zaporizhzhia. Jackson 1997, pp. 107ff.

Table 4.1. Share of pupils in Russian-language classes with regard to all school children in 1991-1995 (a regional profile)⁵²⁶

Oblasts (or cities)	Percentage of ethnic Russians, 1989 census	Percentage of persons with Russian as native language, 1989 census	1991	1992	1993	1994	1995
West							
Volhynia	4.4	5.1	5.4	4.4	3.0	3.0	2.0
Rivne	4.6	5.6	6.4	3.4	2.0	2.0	1.0
Lviv	7.2	8.8	8.1	6.2	5.0	4.0	4.0
Ternopil	2.3	2.5	2.4	2.0	2.0	1.0	1.0
Ivano-Frankivsk	4.0	4.8	4.0	3.3	3.0	2.0	2.0
Transcarpathia	4.0	5.0	7.3	6.2	5.0	4.0	4.0
Chernivtsi	6.7	10.5	15.7	13.6	9.0	6.0	5.0
Centre							
Zhytomyr	7.9	12.0	23.3	20.9	17.0	15.0	14.0
Khmelnyskyi	5.8	8.0	18.5	15.9	13.0	10.0	8.0
Vinnitsia	5.9	8.6	18.7	16.2	13.0	10.0	9.0
Kyiv (oblast)	8.7	10.9	15.4	13.3	10.0	9.0	8.0
Kyiv (city)	20.9	41.1	69.0	58.3	45.0	37.0	30.0
Cherkasy	8.0	10.3	24.2	21.7	19.0	16.0	14.0
Kirovohrad	11.7	15.1	37.8	34.7	31.0	28.0	25.0
Chernihiv	6.8	13.6	32.9	29.7	26.0	22.0	19.0
Sumy	13.3	21.4	51.5	51.0	44.0	40.0	37.0
Poltava	10.2	13.2	25.7	25.6	23.0	20.0	17.0
East							
Dnipropetrovsk	24.2	37.2	68.9	67.4	63.0	58.0	54.0
Zaporizhzhia	32.0	48.8	77.3	75.1	73.0	70.0	69.0
Kharkiv	33.2	48.1	72.0	69.4	67.0	65.0	63.0
Donetsk	43.6	67.7	96.7	96.1	95.0	95.0	94.0
Luhansk	44.8	63.9	93.3	92.7	92.0	91.0	90.8
South							
Odesa	27.4	47.1	73.5	70.7	69.0	68.0	66.0
Mykolaiv	19.4	33.8	56.5	53.9	49.0	47.0	44.0
Kherson	20.2	30.4	48.3	43.8	42.0	40.0	40.0
Crimea	67.0	82.6	99.96	99.99	99.7	99.7	99.5
Total in Ukraine	22.1	32.8	50.0	47.8	45.0	43.0	41.0

Resistance was especially strong in the Donbas (Donetsk and Luhansk oblasts). This was the case in spite of the fact that the tempo of change there was the lowest in Ukraine (with the exception of Crimea, where no change took place at all), and Russian-language schools and institutions of higher education were in no case lacking. During the miner strike of June 1993, some teachers went to the streets in Donetsk, demanding a halt to the ministry of education's campaign. The oblast council recommended that school administrations refrain from its implementation.⁵²⁷ Both local elites and the communist party instigated popular fears. The former tried to wrest more power and money from Kyiv, stressing the need for federalism in Ukraine that would grant the regions rights to pursue, *inter alia*, their own linguistic and social policy. The latter portrayed the economic crisis and decreasing living standards as a consequence of the disintegration of the USSR and 'the breaking of ties' with Russia and other states of the CIS. The communists combined an ethno-cultural protest with a social and economic one. They thus created a much more powerful opposition to the 'nationalist' and

⁵²⁶ Janmaat 2000, p. 19; Prybytkova 1998, p. 240. Since the figures presented in the table take into account not only younger children who started learning in Ukrainian, but also older ones, most of whom continued to be taught in Russian, the change in linguistic profile for first-graders (which will soon determine profile of schooling in general) is considerably faster.

⁵²⁷ Beletskii 1993, p. 53; Obzor 1993b, p. 13.

'bourgeois' regime, personified in President Kravchuk, than that found in several small, primarily Russian-speaking, ethno-cultural and integrationist parties, such as the Civic Congress of Ukraine.⁵²⁸ In the parliamentary elections of March-April 1994, the communist party won the majority of constituencies in the Donbas, as well as in some other mostly Russophone and heavily industrialised regions of the East and South. They also won a plurality of seats in most other parts of the country. On 27 March, simultaneously with the first round of elections, local polls were held in the Donetsk and Luhansk oblasts. One of the poll questions asked people whether they favoured elevating Russian to a special legal status in these areas, which was called 'official', in contrast to Ukrainian, which was referred to as the 'state' language (the difference between the two, however, was never overtly described). This special status of Russian was supported by an overwhelming majority of the population, alongside the federalisation of Ukraine and its closer integration into CIS structures.⁵²⁹ The idea of granting a special status to Russian was first realised as early as March 1993 in the Donbas city of Yenakieve, where the local council declared official bilingualism on its territory.⁵³⁰ By the time the elections came round, this idea had become common sense to the court of public opinion in the East and South, as did striving for the 'restoration of broken ties' with Russia and other CIS countries. Such priorities predetermined these regions' overwhelming rejection of the 'nationalist' incumbent, Kravchuk, in the presidential elections of summer 1994, in favour of his principal rival, Kuchma, who incorporated those priorities in his programme. At the same time, nationalist parties presented changes that had been promised by Kuchma as dangerous to the survival of the Ukrainian nation and state. The election therefore turned into a geographically polarised confrontation between the pro-integration Russophones and pro-independence Ukrainophones, as sociologists would later show.⁵³¹ Some analysts even envisaged that the struggle between East and West would lead to the disintegration of Ukraine, and/or failure of its independence.⁵³²

4.2 *The HCNM's Recommendations of 15 May 1994*

It is (...) possible to create a steady increase of the knowledge of the Ukrainian language without in any way curtailing the position of Russian schools and the position of Russian as the language of education in these schools. Even though present Ukrainian legislation does not provide grounds for such fear, it would seem advisable, however, to make it clear to the Russian population in the east that for those who have not had the opportunity to learn the Ukrainian language in the schools, this will have no negative consequences for their job opportunities, and that there are no reasons for them to fear a process of forced Ukrainisation.⁵³³

The Russian-speaking regions' opposition to the policies of the central government and its legitimisation with local polls, often used by minority elites in their struggle against majority regimes, seemed to the High Commissioner serious enough to require his involvement. However, he was careful not to treat this opposition as an inter-ethnic confrontation. In his letter to the Minister for Foreign Affairs Zlenko, which he wrote soon after his discussions in Kyiv, Donetsk and Simferopol in early May 1994, he argued that "there are presently no significant ethnic tensions between Ukrainians and Russians". Another positive element was, in his view, that "the Ukrainian legislation concerning minority questions complies, in general, fully with the international obligations Ukraine has entered into". The HCNM saw the main problem in that the central government

is faced with a number of demands from regions where Russians constitute a strong minority, such as the eastern Ukrainian oblasts, or constitute a majority, as in Crimea. Failure to find mutually acceptable solutions for these questions might have a negative effect on inter-ethnic relations.⁵³⁴

⁵²⁸ Wittkowsky 1998, sec. 3.3; Solchanyk 1994, p. 61; Smith/Wilson 1997, pp. 849f.

⁵²⁹ Arel/Wilson 1994; Arel 1995b, pp. 173, 187 (fn. 51).

⁵³⁰ Obzor 1993a, p. 11. The same move was soon made by the Luhansk city council, and later repeated on the oblast level in Odessa and Luhansk. Arel 1995b, p. 187 (fn. 51); Khronika 1993, p. 105.

⁵³¹ Arel/Khmelko 1996, pp. 81f.

⁵³² See e.g.: The Economist 1994; Rumer 1994.

⁵³³ Letter by van der Stoep to Zlenko, 15 May 1994, p. 785.

⁵³⁴ Ibid.

Although he by no means equated a challenge from the Donbas with "considerable differences" between Kyiv and Simferopol, he saw the regional elites' striving for powers, primarily in the economic field, as a common source of the two problems. Therefore, he deemed it desirable that a group of OSCE experts investigate the situation. They were to advise on, in addition to the questions in dispute between the central and peninsular authorities, "to what degree the demands for greater economic latitude expressed by some oblasts in eastern Ukraine could be met".⁵³⁵

At the same time, the High Commissioner did not reduce the problem to an economic dimension only. His visit to Donetsk made him believe that "the language question is clearly a sensitive issue in this region". While finding it "fully understandable that, after such a long period of neglect, a special effort is being made to restore the Ukrainian language to its rightful place", he only supported measures that stimulate "a steady increase" in knowledge of the language. In particular, he supported introducing it as one of the compulsory subjects in the curriculum of Russian-language schools.⁵³⁶ In contrast, as the above quotation indicates, the HCNM clearly discouraged the 'de-Russification' campaign envisaged by the ministry of education, which could not but curtail the position of Russian schools. Moreover, the HCNM suggested that the central authorities make it clear that lack of knowledge of Ukrainian would have, at least for some time, no negative impact on employment prospects. This recommendation, quite reasonable with regard to conflict prevention, had far-reaching implications on the language policy. It sought to avoid Ukrainianisation not only as the infringement upon an individual's right to preserve his/her linguistic identity, but also as the imposition of an obligation to master the state language on those working in the public sector. It thus stripped the efforts to ensure an increase in knowledge of Ukrainian of their most important motivation and stimulus.

Furthermore, the HCNM proposed to legitimise the right to use Russian in those fields where the current legislation demanded Ukrainian only be used. He pointed to the results of a recent poll where an official status of Russian in the Donbas was supported by, in addition to the ethnic Russians, a considerable part of (Russophone) Ukrainians. In view of this expression of the popular will, the HCNM suggested a means to provide for such a status of Russian in the regions where most people preferred it. The suggestion was to amend an article of the law on national minorities which allowed for the use of a minority language alongside the state one "in the work of state organs, public organisations, enterprises and institutions" in the places where a respective ethnic group constituted a local majority. He believed that

the scope of this article could be widened somewhat more, for instance, by allowing the same formula in places where the national minority constitutes a substantial part of the population without necessarily reaching the level of 50%.⁵³⁷

This means was in line with the experience of the protection of the rights of the minority in other states and the High Commissioner's contribution thereto. Moreover, it further developed, rather than radically changed, the approach applied by the Ukrainian authorities. Instead of referring to the linguistic rights of individuals, regardless of their ethnic origin, van der Stoep called for a wider use of Russian as a minority language. However, the proposed measure, together with the lifting of the requirement for state employees to master the Ukrainian language, would have led to complete neglect of the right of persons belonging to the Ukrainian linguistic minority to use their language in dealing with employees. This was all more so the case because post-Soviet officials mostly used their language of preference when answering citizens, rather than adapting to the language of the latter. Although the HCNM declared that he understood the efforts that aimed to secure the "rightful place" of the Ukrainian language, his recommendations were, in effect, more oriented towards preserving the former Soviet status quo, which the Ukrainian government, even if highly inconsistently, sought to change.

It is unsurprising that Kyiv was not ready to fully embrace the proposed change. In his reply of 7 June, Zlenko argued that the Ukrainian legislation and governmental policy, "in order to establish

⁵³⁵ Ibid., p. 787.

⁵³⁶ Ibid., p. 785.

⁵³⁷ Ibid., p. 786.

harmonious inter-ethnic peace, provide for the protection of rights not only of national minorities, but also of Ukrainian ethnos weakened during the centuries of forcible Russification".⁵³⁸ At the same time, he believed that the right to use, alongside the state language, languages of minorities in places of compact settlement, was envisaged by legislation - not only for places where the respective minority constituted a local majority, but also applied for those areas where there was no single majority group. Such areas were, in particular, the two oblasts of the Donbas, as well as some major urban centres in other eastern and southern oblasts. In these areas, the language law provided for the possibility to use, alongside Ukrainian, a "language acceptable for the whole population".⁵³⁹ This implied Russian and presented a pre-independence concession to the supporters of the preservation of its role as a primary language of inter-ethnic communication throughout the USSR. The HCNM's recommendation with regard to amending a respective provision of the law on national minorities was, in effect, aimed at bringing that law in compliance with the language law. However, the Ukrainian government explicitly stated that it did not "deem it necessary".⁵⁴⁰ Instead, the executive probably preferred to bring the latter law in accord with the former, which was, however, hardly possible in view of the leftist and Russophile opposition in the parliament. At the same time, the authorities were ready to use the uncertainties in, and contradictions between, the laws in order to be able to pursue the language policy in accordance with administrative and political expedience. Reluctant to legitimise the rights of Russian, the government agreed to "widely explain" to the Russian-speaking population that their not knowing Ukrainian would not be "a ground for rejecting the employment of a citizen".⁵⁴¹ This was meant to weaken their opposition to Kyiv, especially in view of the imminent presidential election. As a matter of fact, on the eve of the election, Kravchuk went as far as supporting, during his visit to the Donbas, the demand for an official status for Russian.⁵⁴²

After such an unequivocal rejection of the HCNM's recommendation, which appeared to be the only case in his relations with Kyiv, the High Commissioner did not address the problem of Russian in his letters for a long time. This was probably partly caused by his realisation that the Ukrainian government was not ready to accept any suggestions aimed at recognising a non-minority role of Russian, while Russian organisations, stripped of the support from local authorities, were too marginal to mobilise mass protests. More important was the fact that the policy of balancing demands of Ukrainophones and Russophones, which the government continued to pursue, managed to considerably diminish the tensions over language issues. These were only revived five years later by Kyiv's more salient nationalising moves and Moscow's instigating protests.

4.3 *Rights of Russians and Russian-speakers in 1994-1999*

A major factor that weakened the Russophone opposition to Kyiv's linguo-cultural policy appeared to be the defeat of Kravchuk - who was held as a personification of the policy - in the presidential elections of June-July 1994. Elected due to overwhelming support of the Russian-speaking population, Kuchma stressed in his inaugural speech on 19 July that he saw Ukraine as the "own mother for all its citizens, regardless of their nationality, denomination, [and] a language they consider their mother tongue", and announced he was going to initiate granting an official status for Russian while keeping the state one for Ukrainian. Moreover, he called for Ukraine's reorientation towards "the Eurasian space", that is, towards closer co-operation with Russia and the CIS.⁵⁴³ These plans evoked a strong protest with the Ukrainian-speaking intelligentsia and nationalist parties. They declared the plans a threat to the Ukrainian nation and state, and did their best to prevent the new president from implementing them. The opposition also argued that granting Russian a special status would violate the equality between minorities. More important, they pointed to the arguably woeful situation of the Ukrainian language and culture, which was not sufficiently supported by the state.⁵⁴⁴ Using the new president's dependence on their support in the parliament, as well as, again, the logic of state- and

⁵³⁸ Letter by Zlenko to van der Stoep, 7 June 1994, pp. 789-790.

⁵³⁹ Law on Languages 1989, art. 3.

⁵⁴⁰ Letter by Zlenko to van der Stoep, 7 June 1994, p. 790.

⁵⁴¹ Ibid.

⁵⁴² Beletskii 1994, p. 6.

⁵⁴³ Ukrinform 1994.

⁵⁴⁴ See e.g.: Kosiv 1994.

nation-building imposed by his incumbency, the nationalists generally succeeded in their efforts. It is correct that the propagandist 'anti-Russianness' had substantially diminished. Moreover, Kuchma partially implemented his earlier call for the decentralisation of humanitarian policy, thus enabling the authorities in the mostly Russian-speaking regions to further take into account popular priorities in ideological schemes applied to the official propaganda.⁵⁴⁵ However, the president never initiated proceedings to give Russian an official status, nor did he embark upon Ukraine's integration into the CIS's crucial structures. His activities instead focused on consolidating the system of state power (and his own power) by more closely subordinating the regional authorities to the centre and drawing them into the struggle for posts and influence in Kyiv. This made them less inclined to instigate cultural and social protest in the region's population.⁵⁴⁶

In co-operation with the 'party of power' that was interested in stability and unification, Ukrainian nationalist parties successfully blocked most pro-Russophone and pro-integration legislative or administrative initiatives. The principal defensive battle was won by these parties with the adoption of the new Constitution in June 1996. Leftist and Russophone forces failed to obtain a special status for Russian fixed in the document, and since then it has been virtually impossible to ensure two thirds of the parliament's votes for any constitutional amendments on this controversial matter. Although the declarative provision of the language law providing for the free use and protection of Russian and other minority languages was repeated in the Constitution, this provision, at the same time, implied a minority status for Russians, which their advocates debated.⁵⁴⁷

At the same time, instigated by the Ukrainian nationalist parties, the president approved a rather complex programme of protectionist measures for Ukrainian books and media as well as legislative and administrative steps which aimed to introduce Ukrainian into official use in the government bodies and education.⁵⁴⁸ As one of these steps, the committee on nationalities and migration prepared a draft of the new language law which was far more radical in its Ukrainianisation provisions than the law of 1989. In particular, it stipulated organisational measures for implementing the provisions in short terms of one to three years, instead of the former five to ten years. It also included rather severe penalties for violating the law. The lack of penalties in the valid act was considered one of the main reasons why it had not been duly implemented. The use of other languages would be limited to those regions where the respective group constituted a majority. This would be in agreement with the law on national minorities, although in contrast to the previous language law, as well as with the HCNM's recommendation.⁵⁴⁹ Because of sharp criticism from Russian organisations and left-wing parties, the draft was not even presented for the parliament's consideration. The government-initiated 'public discussion' and further elaboration dragged on for three more years.⁵⁵⁰ Other provisions of the programme were implemented in part only, but the programme itself was not cancelled, as its opponents had demanded. In contrast, a governmental decree was passed in September 1997, which intended to promote wider functioning of the state language in a number of fields.⁵⁵¹ While Ukrainian was increasingly being used as an official language of the government bodies, even in Russian-speaking regions, though so far in writing only, the situation in the media and in book publishing got even worse for the Ukrainophones. One of the reasons for this was Kyiv's failure to respond to Moscow's challenge of creating the most favourable taxation conditions for the Russian publishing sector. This resulted in the rapid expansion of Russian producers to the Ukrainian book markets, thus further strengthening the domination of the Russian language.⁵⁵²

⁵⁴⁵ Kulyk 1996, p. 24; Druha sesia VRU, Bulletin No. 13, [Kyiv] 1994, p. 30.

⁵⁴⁶ See also: Wittkowsky 1998, ch. 4; Smith/Wilson 1997, p. 850; Motyl 1998, p. 10.

⁵⁴⁷ Kulyk 1999, pp. 52-54.

⁵⁴⁸ Doruchennia Prezydenta Ukrainy, 5 December 1996. Kuchma's assignment referred to recommendations of a round table held two weeks before by a nationalist Prosvita society together with several power bodies, which demanded that the state take radical measures aimed at "promoting full-value functioning of the official language and deliberate narrowing of that of the non-official one" (i.e., Russian). Rekomendatsii 1996.

⁵⁴⁹ Proekt zakonu pro movy 1997.

⁵⁵⁰ Interview with Troshchyns'kyi, 4 December 1999.

⁵⁵¹ Postanova Kabinetu Ministriv Ukrainy, 8 September 1997. In fact, the resolution failed to make the language regime considerably stricter. Janmaat assumes the reason was that otherwise, it would have contradicted the valid language law. Janmaat 2000, p. 69.

⁵⁵² Komitet zakhystu ukrains'koi knyhy 2000.

Although radical Ukrainian nationalists criticised the 'anti-Ukrainian' linguistic and cultural policies of the Kuchma regime,⁵⁵³ the Russophones had no less grounds for feeling alienated by those policies. Their main symbolic goal, to obtain the official status of the Russian language, had not been achieved.⁵⁵⁴ No other constitutional or legislative provisions were made to meet the 'more than minority' demands of the group. The Ukrainianisation process in education was never terminated. With the exception of western oblasts, in some of which not a single Russian-language school remained, most Russians had so far easily found a school and even university with instruction in their mother tongue,⁵⁵⁵ although the future of this right was unclear. The gradual shift of the government bodies to the use of Ukrainian put Russian-speakers at a disadvantage. The continuing attempts of several oblast and city councils of the East to declare an official status of Russian on their territory were resisted by the executive, which argued that the majority of the local population were ethnic Ukrainian.⁵⁵⁶ Unsurprisingly, activists of Russian organisations expressed their indignation at the perceived discrimination, as well as at the continuing disregard of their demands and proposals by the authorities.⁵⁵⁷ Disappointed with the state's ethno-political priorities and methods, they became much more radical in their approach. Most Russian leaders had formerly agreed with the necessity to widen the use of Ukrainian in society, though stressing the individual's right to preserve his/her linguistic identity. At present, they deny that former Russification was a deliberate policy of the tsarist and Soviet regimes. Therefore, they see no grounds for promoting the position of the Ukrainian language in the post-Soviet era.⁵⁵⁸ With regard to the above-mentioned draft language law, Russophone activists criticised not only the narrowing of the minorities' rights to use their own languages, and of the 'more than minority' scope of rights that the valid law granted to Russian, but also measures that were intended to ensure the use of Ukrainian as the official language. The stipulation of penalties appeared to be especially unacceptable to the draft's opponents. They considered this evidence of the authorities' intentions to pursue forcible Ukrainianisation.⁵⁵⁹ In resisting protective measures with regard to Ukrainian, pro-Russophone organisations referred to provisions of the Constitution and the valid language law, interpreting them as guaranteeing unlimited use of Russian in all spheres of society.⁵⁶⁰ The language law, however, was not considered as satisfying the needs of the Russian(-speaking) population. In November 1998, the leading Russophone association, Rus', presented an alternative bill to the parliament, providing for the official status of Russian.⁵⁶¹ Predictably, the document met strong resistance from pro-Ukrainophone deputies and, therefore, could not appear on the session's agenda.⁵⁶²

At the same time, steps were taken towards large-scale self-organisation of an active part of the Russophone population, which would enhance their ability to defend their rights. In May 1999, the first Congress of Russians of Ukraine convened in Kyiv, where representatives of more than 50 ethno-cultural organisations elected the Russian Council of Ukraine. This council was put in charge of promoting the "realisation and protection of rights and interests of the Russian and Russian-speaking citizens of Ukraine". The declared main goal of the council was to be the protection of the Russian language, primarily in the field of education. The rather radical mood of the congressional delegates was reflected in a resolution which demanded that the status of Russian be a state language, alongside Ukrainian, rather than an official one.⁵⁶³

However, such ethno-cultural associations remained weak and non-influential. In contrast to their members, who are mainly intelligentsia, most of the rank-and-file Russophones do not feel nearly as

⁵⁵³ In the 1998 parliamentary election, the National Front block was formed, denouncing both cultural and social policies of the regime and demanding "Ukrainian authorities for Ukraine". However, the block did not manage to get into the parliament. Andrushchak et al. (Eds.) 1998, pp. 649-651 (quote on p. 649); Ott 1999, pp. 21, 23.

⁵⁵⁴ While this is mostly considered a direct consequence of the president's breaking his electoral promise, it is not at all sure that he would have been able to ensure this status supported by the parliament, had he ever initiated it.

⁵⁵⁵ Solchanyk 2000, pp. 544-546.

⁵⁵⁶ Den', 7 March 1997, p. 2; 22 March 1997, p. 1.

⁵⁵⁷ Rekomendatsii 1997; and similar recommendations of the following conferences held by the Rus' association.

⁵⁵⁸ See interviews with leaders of most eloquent (pro-)Russophone parties and organisations: Dvovomnist' 1997.

⁵⁵⁹ Yakovlev 1997; interview with Oliinykov, 24 September 1999.

⁵⁶⁰ Yakovlev 1997, p. 7; Zaiavlenie Russkoi obshchiny Kryma, 14 January 1997.

⁵⁶¹ Proekt zakonu pro movy 1998.

⁵⁶² Interview with Kiiashko and Yakovlev, 20 October 1999.

⁵⁶³ Redaktsionnaia stat'ia 1999; I s'iezd russkikh Ukrainy 1999, p. 21; interview with Oliinykov, 24 September 1999.

endangered culturally as they do socially.⁵⁶⁴ This is given the preservation of their customary linguistic environment and, at the same time, their unsatisfactory living standards. No move on the part of the authorities, not even a perceptible one for the people, as, for example, the decision in October 1996 to cut off the Russian channel ORT, the most popular TV channel in Ukraine, evoked mass protests in the population.⁵⁶⁵ It is not surprising that the language problem appeared to be rather marginal in the election campaign of 1998-99. The communists maintained their leadership in the parliamentary elections, while the parties with the main propagandist stress on bilingualism and closer ties with Russia failed as impressively as those that demanded 'truly Ukrainian authorities'.⁵⁶⁶ In the presidential campaign, there was also no confrontation between the linguistic groups. Kuchma's rather persuasive victory over his communist rival, Petro Symonenko, was widely perceived as having little to do with the incumbent's attitude towards Ukrainian or Russian but much more with the administrative resources that he had at his disposal.

4.4 *Perceived Infringement on Russophone Rights in late 1999 and 2000*

Soon after the presidential election, the language problem once again came to the forefront of public attention, as both Ukrainophone and Russophone parties newly attempted to change the situation in their favour. Given that neither of them was strong enough to get the respective drafts of the language law approved by the parliament, they used other instruments which seemed to enable them to achieve adequate results. Supporters of the further Ukrainianisation of society appealed to the Constitutional Court to interpret Article 10 of the Constitution, which declared Ukrainian to be the only state language, but, at the same time, guaranteed "free development, use and protection" of Russian and other minority languages. As mentioned above, the formula had been vague enough to be viewed as favouring both parties. On 14 December 1999, the court announced its decision, which defined the Ukrainian language as an "obligatory means of communication on all territory of Ukraine in exercising their powers by the bodies of state power and local-self-government (language of acts, work, correspondence, documentation, etc.), as well as in other public spheres of the society's life stipulated by the law". Alongside the state language, local executive and self-government bodies, as well as power bodies in Crimea, could use "Russian and other minority languages" within the scope provided for by Ukrainian legislation. Moreover, the document stipulated that the language of instruction in pre-schools, schools and institutions of professional and higher education be Ukrainian. Minority languages could, however, be "used and taught" in the educational process.⁵⁶⁷ Its obvious ambiguities notwithstanding, the decision was unequivocally perceived as being aimed at strengthening the position of the state language, primarily by implicitly ruling out Russian as an acceptable language in the central power bodies.

After only ten days, however, pro-Russophone deputies of the Verkhovna Rada reduced the other party's victory to nearly nothing. The deputies succeeded in having the European Charter for Regional or Minority Languages, which Ukraine had signed in May 1996, ratified in a version that provided, in effect, for the official status of Russian on nearly a half of Ukraine's territory. A draft ratification law, which had been submitted by the executive, suggested the adoption of crucial provisions of the charter on a minimal or medium level. On the other hand, an alternative draft, which was elaborated by opponents of Ukrainianisation, provided for maximal obligations with regard to languages of those minorities constituting more than 20 per cent of the local population. In contrast with the charter's intention to support *language* groups, the draft proposed the *ethnic* principle of determining the number of language speakers, which meant a significant decrease in the case of Russian. Nevertheless, that language was to be used in Crimea, seven eastern and southern oblasts and the city of Kyiv at all levels of education, from pre-schools to universities, in legal proceedings of all types, if one of the parties

⁵⁶⁴ Only an insignificant part of respondents in all surveys saw infringement upon their linguo-cultural rights as a problem they held to be important; the issues that were given top priority were low living standards and the high level of criminality.

⁵⁶⁵ The decision was widely perceived as aimed at impairing Russia's political and cultural influence on Ukraine, although the government argued that it was for financial reasons. Nivat 1996.

⁵⁶⁶ None of several more or less explicitly pro-Russian parties and blocks managed to clear the hurdle in the nation-wide party vote. Ott 1999, pp. 15-25.

⁵⁶⁷ Rishennia Konstytutsiinoho Sudu Ukrainy, 14 December 1999.

requested, and in the work of regional or local administration, including work with visitors and answering citizens' applications. Also, a medium level was stipulated for regions where a minority group constituted 10 to 20 per cent of residents, which included four other oblasts allowed to use Russian. Furthermore, the draft prohibited reducing the network of educational and cultural institutions using minority languages in their work. When this draft was unexpectedly supported by a majority in the Verkhovna Rada on 24 December,⁵⁶⁸ the executive was not able to use its primary leverage to prevent the legislative acts from coming into force, namely the president's veto. This was because a law on international treaties stipulated that ratification instruments were not subject to the president's signature. The only way that the pro-Ukrainophone forces could block the act that they believed would both ruin all efforts to expand the use of Ukrainian, and impose huge expenses to secure the use of Russian and other minority languages,⁵⁶⁹ was to resort once again to the Constitutional Court. The court's decision of 12 July 2000 declared unconstitutional the respective provision of the law on treaties and, therefore, also the law on ratification, which appeared to have been adopted by violating the Constitution.⁵⁷⁰ In anticipation of the decision, the government did its best to delay sending the ratification document to Strasbourg for as long as possible.⁵⁷¹ This delay was one of the complaints from the Russophone activists in their meetings with the HCNM in June 2000.⁵⁷²

Meanwhile, the executive planned further steps to promote the use of Ukrainian. These steps were presented as implementing the Constitutional Court's decision of December 1999. In January 2000, the newly appointed government headed by Viktor Yushchenko, who clearly supported the Ukrainianisation course, elaborated a draft decree on "additional measures to broaden the functional scope of Ukrainian as a state language". The draft, intended to overcome "a trend to 'braking' and localising the process of enhancing the role of the Ukrainian language",⁵⁷³ was similar, in spirit, to the above-mentioned decrees of December 1996 and September 1997. In particular, it provided for elaborating a system of state support for newspapers and books, as well as audio and video products in Ukrainian. It also included a number of measures to popularise the language, most notably Ukrainian language courses. Additionally, the draft provided for correcting the draft language law and a draft concept of the state language policy of Ukraine which was to be presented to the Verkhovna Rada for consideration. Some of the proposed measures, however, were more prohibitive than affirmative. First of all, the government intended to complete the processes of making the relative numbers of pre-schools and schools in Ukrainian and Russian, in all regions, correlate with ethnic composition of the population. Further measures included the elaboration of programmes of "de-Russification in the sports and tourism spheres"; the "regulation of touring activities" of foreign (i.e., primarily Russian) pop singers in Ukraine; and "applying tax leverages to printed products coming into the Ukrainian markets from abroad"⁵⁷⁴ (again primarily from the RF). Moreover, imminent re-attestation of all state officials, "taking into account their proficiency in Ukrainian and using it while exercising their official duties",⁵⁷⁵ though fully in line with the language law and the Constitutional Court's decision, was also perceived by opponents of Ukrainianisation as potentially discriminating against Russian-speaking persons.

Activists of Russophone organisations drew the attention of the Russian power bodies and the Parliamentary Assembly of the Council of Europe to what they believed was a dangerous turn in Kyiv's policies. Moscow's response coincided in time with, and probably is to be understood in the context of, a move by the new President Vladimir Putin to make the creation of "a favourable linguistic environment for our compatriots in the CIS and Baltic states" an "exceptionally important matter" for the Russian government.⁵⁷⁶ On 28 January, the foreign ministry sent a note to its Ukrainian counterpart. The note criticised the "further toughening of administrative measures taken in Ukraine against preserving

⁵⁶⁸ *Zakon pro ratyfikatsiu 1999*. See also: Kulyk 2001.

⁵⁶⁹ See e.g.: Oltarzhevs'ka 2000; Spivdruzhnist' 2000.

⁵⁷⁰ *Rishennia Konstytutsiinoho Sudu Ukrainy*, 12 July 2000.

⁵⁷¹ Kornilov 2000a. The government could hardly afford to reject, or even publicly criticise, the move that the Council of Europe had long insisted on as a part of Ukraine's admission commitments.

⁵⁷² Kornilov 2000b; interview with Shul'ha, 19 January 2001.

⁵⁷³ *Proekt postanovleniia Kabinetu Ministrov*, 1 February 2000, p. 81.

⁵⁷⁴ *Ibid.*, pp. 83-84.

⁵⁷⁵ *Ibid.*, p. 82.

⁵⁷⁶ Putin's address to the Russian government's session of 3 February 2000, quoted in: *Jamestown Monitor* 2000b.

and developing the Russian language", particularly the relevant decision of the Constitutional Court, as violating the Ukrainian constitutional provision on the free use of Russian and Kyiv's international commitments, including the newly ratified charter and the friendship treaty between Ukraine and Russia.⁵⁷⁷ In a follow-up statement, which was issued ten days later, the ministry went on to denounce the draft government decree as intended "to create an unprecedented phenomenon in Europe, that is, exiling the native language of the overwhelming majority of the people, reducing it to a marginal level, and possibly ousting it completely".⁵⁷⁸ At the same time, on 10 February, Russian ombudsman Oleg Mironov denounced the alleged restriction on the use of Russian as "a gross and explicit violation of the norms of civilised relations among peoples and of the basic rights and freedoms of citizens proclaimed by the European Convention, to which Ukraine is a signatory". He urged the Council of Europe and the OSCE to increase their monitoring of the situation.⁵⁷⁹ In a reply statement of 12 February, the Ukrainian foreign ministry qualified a campaign launched by the Russian official bodies as inspired by "political forces hindering constructive development of Ukrainian-Russian relations". Moreover, the ministry pointed to the "difficult linguistic situation" of the Ukrainian diaspora in Russia as a violation by Moscow of the friendship treaty's provision that obliged the parties to create "equal opportunities and conditions for learning the Ukrainian language in the Russian Federation and the Russian language in Ukraine".⁵⁸⁰ Kyiv was also ready to appeal to international experts in order to counteract Moscow's perceived misinformation on the linguistic situation in Ukraine.⁵⁸¹

While the Ukrainian government, in order to not further antagonise Moscow, refrained for several months from putting the above decree into force, it did not cancel its plans for the enhancement of the role of Ukrainian, and thus curbing that of Russian. The decree was approved on 21 June in a somewhat 'softened' version.⁵⁸² A week later, the government finally presented to the parliament a revised version of the draft language law of 1997 which clearly demonstrated its striving towards Ukrainisation. Meanwhile, the announced measures of the State Committee on Information Policy headed by a well-known nationalist politician, Ivan Drach, appeared to be particularly conspicuous. It announced that it would make TV and radio companies comply with the provisions of their licences, stipulating a share of broadcasting in Ukrainian, which most companies flagrantly violated. Similarly, the committee demanded that Russian newspapers which were registered in Ukraine publish more material on the country, and use at least some Ukrainian language, in accordance with their registration documents.⁵⁸³ While these plans were, from the very beginning, widely perceived as potentially discriminating against the Russian(-language) media, serious tensions only arose when the authorities started implementing the plans. In April 2000, the oblast authorities in the western Ukrainian nationalist stronghold, Lviv, shut down a radio station broadcasting mostly in Russian, which it was not licensed to do. Subsequently, the authorities refused to comply with a court decision that had declared the shutdown illegal.⁵⁸⁴ The most troubling development, however, took place in the same city in late May, when a popular Ukrainophone composer was beaten to death by two Russophone residents after he had refused to stop singing Ukrainian songs in a café. His death resulted in protest rallies with an anti-Russian tone as well as extremist groups destroying stands that sold Russian pop music and vandalising cafés that played it, unprecedented events in the ten years since independence.⁵⁸⁵ Within a month, the city council had adopted resolutions that limited the use of (mostly Russian) 'low-standard' pop music in public places and discouraged the trade of Russian-language cultural products, e.g. music, videos and books. Moreover, radical nationalist parties formed volunteer squads to monitor the application of the new rules.⁵⁸⁶ These clumsy attempts at protecting the Ukrainian linguistic environment were vividly depicted by the Russian and Western media. They evoked another batch of harsh criticism from Moscow, denouncing the "anti-Russian hysteria" in western Ukraine, which was allegedly encouraged by the central government, because it had failed to react to the events.⁵⁸⁷ It was amidst these

⁵⁷⁷ Nota MID RF, 28 January 2000.

⁵⁷⁸ Quoted in: RFE/RL 2000a.

⁵⁷⁹ Quoted in: RFE/RL 2000b.

⁵⁸⁰ Zaiavlenie MID Ukrainy, 12 February 2000.

⁵⁸¹ Zoria 2000.

⁵⁸² Postanova Kabinetu Ministriv Ukrainy, 21 June 2000.

⁵⁸³ See an interview with Drach: Lihachova / Lemysh 2000.

⁵⁸⁴ Li 2000; Zazuliak 2000.

⁵⁸⁵ Den', 30 May 2000, p. 2; Vechernie vesti, 1 June 2000, p. 2.

⁵⁸⁶ Den', 23 June 2000, p. 2; Kuzio 2000.

⁵⁸⁷ ITAR-TASS, 4 July 2000 (quote); Den', 21 July 2000, p. 3; Zam'iatin 2000a; Kuzio 2000.

developments that the HCNM travelled to Lviv and several other Ukrainian cities to take a closer look at the linguistic situation and Russophone rights.

4.5 *The High Commissioner's Involvement in 1999-2000*

Van der Stoel's visit was not, however, prompted by the events in Lviv, as was stressed by Ukrainian officials after their meetings with him.⁵⁸⁸ Indeed, a visit devoted to the investigation of the Russophone problem had been planned a long time before. As noted above, the HCNM did not address this problem after 1994 in his recommendations to the Ukrainian government. He did, however, continue observing the situation in both Crimea, where (pro-)Russian activists bemoaned 'forcible Ukrainianisation' under the conditions of continuing domination of the Russian language in all fields, and in western Ukraine, where Ukrainianisation indeed left local Russophones with few state-supported ways to get their ethno-cultural demands met. The HCNM regularly discussed the problem with his Ukrainian interlocutors. While in Simferopol, he usually held meetings with representatives of the Russian community, contrary to Kyiv, where leaders of Russian organisations complained that he disregarded their problems.⁵⁸⁹ According to one of his collaborators, the High Commissioner also considered visiting the western oblasts long before the visit actually took place.⁵⁹⁰ His attention to the linguistic rights of the Russophone population after 1997 was no doubt further augmented by complaints from Russian organisations in Crimea and their defenders in Moscow. The former sought to avoid political marginalisation by criticising both the central government and the peninsular authorities, which allegedly assisted Kyiv in discriminating against the Russians. At the same time, Moscow tried to use the alleged discrimination as a new means to both discredit and influence Ukrainian policies after the problem of the Crimean autonomy had largely been settled. At any rate, in his communication with Russia's officials and politicians, which mostly focused on "the views and policies of the Russian Federation regarding countries which have Russian minorities",⁵⁹¹ the problem of the Russophone population in Ukraine was of primary importance. As van der Stoel himself admitted, his move to closely investigate the situation of Russian-language education in Ukraine, a field that Moscow was especially indignant about, was made upon a request from the Russian government.⁵⁹²

Before intensively dealing with the problem of the Russians' educational rights, the High Commissioner shifted from the narrow focus on the Crimean and Crimean Tatar problems towards a broader geographical and topical framework. He initiated and chaired a seminar on education and languages of Ukraine's minorities within the context of The Hague and Oslo recommendations. The seminar took place in Odessa on 13-14 September 1999. It was organised by the Foundation on Inter-Ethnic Relations, in collaboration with Ukrainian authorities, and was attended by more than 50 persons, including central and local officials dealing with minority problems, Ukrainian experts and representatives from a dozen minorities. Its further semblance with the Yalta round table of October 1995 consisted in relatively wide coverage by the press. In the words of the then acting OSCE Project Co-ordinator in Ukraine, Charles Magee, relevant Ukrainian authorities first attempted to limit access to representatives of loyal minority organisations only. The HCNM, however, insisted that more radical ones also had to be represented. Among those invited upon his insistence was the head of the Russian Community of Crimea, Volodymyr (Vladimir) Terekhov, who presented a very critical assessment of Ukraine's nationalities policy at the seminar.⁵⁹³ However, according to a governmental participant, Terekhov's arguments about progressing Ukrainianisation on the peninsula did not impress the High Commissioner, who was by then far from unaware about the real situation. This was all the more so

⁵⁸⁸ Kornilov 2000b.

⁵⁸⁹ Interviews with Oliinykov, 24 September 1999; and Yermolova, 12 October 1999.

⁵⁹⁰ Interview with Magee, 2 November 1999.

⁵⁹¹ Such was, in particular, the reported topic of his talks in Moscow in January 1998. OSCE Newsletter, 1/1998, p. 10.

⁵⁹² In a letter to the Ukrainian foreign minister, the HCNM argued that this request was made in early 2000, probably referring to Moscow's above-mentioned reaction to Kyiv's move towards Ukrainianisation. Letter by van der Stoel to Zlenko, 12 January 2001. However, an original request (maybe less explicit or formal) was probably expressed at least a year earlier, since he had been addressed by the Ukrainian government in September 1999 to investigate the situation of Ukrainians in Russia in response to Moscow's (perceived) use of the HCNM. Interview with Troshchynskyi, 4 December 1999. Moreover, the very idea of holding a seminar on minority education in Ukraine could have come to van der Stoel in view of Russia's complaints (see below).

⁵⁹³ Interview with Magee, 2 November 1999.

the case because representatives of the Crimean Tatars and Ukrainians immediately rebuffed the arguments.⁵⁹⁴ After his meeting with President Kuchma on 15 September in Kyiv, the HCNM told the press that he saw no serious problems with the use of Russian in Crimea. He argued that statements made by some Russian politicians and the media about discrimination against the peninsula's Russo-phone population were "groundless".⁵⁹⁵ Ukrainian officials welcomed this argument, which was in some press reports presented as partly pertaining to the whole of Ukraine⁵⁹⁶, as an appraisal of Kyiv's nationalities policy in general. In contrast, activists of Russian organisations and diplomats of the RF in Ukraine perceived it as a manifestation of the High Commissioner's support for nationalising measures of the Ukrainian authorities.⁵⁹⁷

Kuchma argued that the Ukrainian leadership had conducted a balanced policy with regard to minorities during the last years, probably referring to the term of his presidency, and that they intended to continue promoting the broader use of the state language in an "evolutionary way". At the same time, he drew van der Stoel's attention to the disadvantageous situation of the Ukrainians in the RF. Upon his request, the HCNM agreed to organise a conference on the problems of Russians in Ukraine and Ukrainians in Russia. He announced that the conference was to take place in December 1999, in Moscow.⁵⁹⁸ As mentioned above, the conference did not take place due to lack of interest on the Russian side. However, the High Commissioner used a broader 'symmetrical' context, including the two states and the two respective minorities, under different conditions. This actually enabled him to achieve more than would have otherwise been possible. Both Moscow and Kyiv were interested in his investigating mediation, following the above-described clash between them in early 2000. Indeed, both governments promised to facilitate the investigation in their respective countries. Given this interest, the HCNM did not face resistance from any of them, nor did they disclaim his involvement as biased, which would probably have been the case if he had limited his mission to Ukraine only.⁵⁹⁹ Also, at a conference, it would have been inevitable that both parties would have made inter-state comparison and self-justifying accusations. Instead, the HCNM could deal with the respective problems in each country measured according to international standards, rather than to criteria that were set across the border.

The first part of the fieldwork was done from 19-26 June 2000, when the High Commissioner, accompanied by two international experts, visited Lviv, Kharkiv, Odessa, Simferopol and Kyiv. The aim was to get an impression of the situation in various regions of Ukraine. In each city, they held meetings with representatives of the regional authorities, Russian organisations and consulates of the RF. They also visited schools where the language of instruction was Russian. In Kyiv, the HCNM also met with the deputy prime minister, who was in charge of humanitarian matters, as well as with the ministers of foreign affairs, education and justice. In his interviews to the press, van der Stoel invariably stressed his intention to investigate the situation of Ukrainians in Russia as well and to refrain from any comments on the situation in the two countries until the collection and the analysis of the information was completed. Only then would he present his recommendations to both governments. As usual, his interlocutors were not as silent as he was. Both the central and regional authorities insisted on the lack of discrimination against the Russians. They expressed their confidence in solving whatever problem remained in inter-ethnic relations, in particular regarding the Tatars in Crimea. The head of the regional administration in Lviv, Stepan Senchuk, went as far as usurping the right to present the High Commissioner's position to the public. He reportedly argued that the guest had "no complaints with regard to recent resolutions on protection of the Ukrainian language adopted by the oblast authorities".⁶⁰⁰ According to accounts of his later meetings, van der Stoel was embarrassed when he was informed of this statement. This may be the reason why he did not keep, at least on one occasion, his promise to refrain from comments. While in Odessa, he reportedly stated that the recent events in Lviv had

⁵⁹⁴ Interview with Troshchyns'kyi, 4 December 1999.

⁵⁹⁵ Odes'ki visti, 18 September 1999, p. 1.

⁵⁹⁶ See e.g.: Panorama presy, 14 veresnia - 20 veresnia 1999 roku, p. 65. No direct quotation was given in this report.

⁵⁹⁷ Interviews with Troshchyns'kyi, 4 December 1999; Oliinykov, 24 September 1999; and Temnikov, 19 October 1999.

⁵⁹⁸ Panorama presy, 14 veresnia - 20 veresnia 1999 roku, p. 65 (quote); OSCE Newsletter, 9/1999, p. 3.

⁵⁹⁹ Prior to this 'symmetrical' involvement, Goble (1999) qualified the HCNM's appeal to Kyiv to retain Russian-language schools in Ukraine and the lack of a call for Moscow to open Ukrainian-language schools as an example of the "obvious double standard" applied by the international organisations. He argued that this kind of a standard was increasingly resented by the weaker countries that were subject to the most scrutiny and criticism.

⁶⁰⁰ Aksaniuk 2000; Kornilov 2000b (quote); Golos Kryma, 30 June 2000, p. 1.

"disturbed" him. In particular, he referred to "manifestations of extremism", which he had seen on a videotape. Moreover, the HCNM argued that it would be good if the local authorities took more resolute measures or more clearly expressed their position with regard to such manifestations. Van der Stoel also denied any need for volunteer squads to check the implementation of regional resolutions limiting the playing of Russian songs in public. He hoped to discuss this issue in his talks in the capital.⁶⁰¹

Leaders of the Russian organisations presented their oral and written complaints on alleged central and local discriminatory measures against Russophones. Most of them pertained to education. The administrative regulations were viewed as promoting instruction in Ukrainian by denying equal opportunities to instruct in Russian. It was also argued that school authorities created obstacles to those parents who wished to make use of the declared obligation of any school to establish a class in Russian, provided that there were a sufficient number (8 to 10) of applications. The activists believed that the authorities had violated the legislation and prevented Russophone citizens from exercising their linguistic rights. Other complaints included discrimination against Russian(-language) media, tough provisions of the presidential draft language law and delays in submitting an instrument of ratification of the Charter for Regional or Minority Languages to the Council of Europe. More disturbing must have been the impression received at a meeting with the Russian activists in Lviv, who tried to persuade the High Commissioner that Galicia was "on the threshold of a civil war" between Ukrainians and Russians, provoked by the local authorities, rather than radical nationalists only.⁶⁰² In less than two weeks, on 7-8 July, van der Stoel returned to Kyiv to discuss the developments in Lviv with the Ukrainian authorities, as well as gather more information on Russian-language schools.⁶⁰³

In mid-September, the High Commissioner, together with the same experts, went to Russia "to study the educational opportunities for the 4.3 million citizens of the Russian Federation, who, according to the census of 1989, are of Ukrainian descent". A month earlier, his advisor and the experts had visited three cities with large Ukrainian communities, where they had conversations with activists of those communities and the regional authorities. While in Moscow, the HCNM and his collaborators met with governmental officials and representatives of Ukrainian organisations from three other regions. It was announced after the visit that the team "anticipates presenting a report on this issue by the end of the year".⁶⁰⁴

4.6 *The HCNM's Recommendations of 12 January 2001*

[T]he current [Ukrainian] legislation which is of relevance for the educational rights of persons belonging to national minorities is in conformity with international standards. I therefore recommend that it will remain unaltered or at any rate not be weakened to the disadvantage of the various national minorities. (...) While it is perfectly legitimate for the government of Ukraine to strive for an expansion of the knowledge of the state language, the realisation of this aim ought not to be sought through restrictive measures regarding minority languages in Ukraine.⁶⁰⁵

The findings and recommendations of the High Commissioner and his collaborators were not presented in the form of a public report, as had been the case with, for example, his document on the situation of Roma and Sinti, which was issued in April 2000. Van der Stoel did not even send a common letter to both governments discussing the problems investigated in the two countries. He did not change his preference to confidential letters addressed to the respective foreign ministers. This seemed to be the best alternative in the analysed case of his dealing with the 'asymmetrical' problems of the two minorities within the 'symmetrical' framework of involvement. In his letter to Ukrainian Minister Anatoly Zlenko, who had re-assumed the post in September 2000, the HCNM informed him that he

⁶⁰¹ Aksaniuk 2000 (quotes); interview with Shul'ha, 19 January 2001.

⁶⁰² Interview with Shul'ha, 19 January 2001; Kornilov 2000b (quote).

⁶⁰³ OSCE Newsletter, 7/2000.

⁶⁰⁴ Ibid., 10/2000 (quotes); Annual Report 2000 on OSCE Activities, pt. II, sec. 2.11.

⁶⁰⁵ Letter by van der Stoel to Zlenko, 12 January 2001. Unlike the previous letters to the Ukrainian foreign ministers, this one contained a request to pass it to the minister of education, rather than to the Verkhovna Rada, although the latter was no less relevant for the implementation of the presented recommendations.

was simultaneously sending a letter to Russian Minister Igor Ivanov. He argued that each of the two would be given an opportunity to become familiar with the letters to and from the other one, as soon as both replies were received in The Hague. The Permanent Council would then be informed as well. The recommendations presented in the letter to Zlenko mostly focused on educational issues. Van der Stoel also mentioned a forthcoming exchange of views in The Hague between experts designated by the Ukrainian government, and those of the HCNM office regarding the governmental draft of a language law.⁶⁰⁶

Unusual for the High Commissioner's letters to the Ukrainian government, the letter of 12 January 2001 contained a rather detailed analysis of the available opportunities to meet educational and other linguistic and cultural demands of the Russian population, as well as of Ukraine's legislation regarding minority rights. This balanced and comprehensive analysis was obviously intended to assure Kyiv that the situation in Russian-language education was not being examined out of its broader context. This provides for an opportunity to look at van der Stoel's, as well as the experts', perceptions and priorities. First, the HCNM clearly did not support attempts of the Russian government and many Russophone activists in Ukraine to disconnect Kyiv's Ukrainianisation moves from the Soviet Russification that had preceded it. While noting that the number of Russian-language schools had been considerably reduced since 1991, the analysis enabled seeing "these figures in their proper perspective" by referring to "a continuous decline in the percentage of children in Ukrainian[-language] schools in the 30 years before independence". It also showed that the percentage was much lower in 1989 than the share of not only the respective ethnic group in the population, but also that of the persons who considered Ukrainian their native language (cf. table 4.1). By assuming that "[i]t is against this background that (...) the Ukrainian authorities decided in 1992 to try to bring the number of Ukrainian[-language] schools in conformity with the ethnic composition of the population in towns and regions", the HCNM, in effect, presented the post-independence Ukrainianisation measures as both legitimate and natural:

The increase of the percentage of pupils going to Ukrainian[-language] schools in the years since independence is therefore probably mainly due to the fact that more ethnic Ukrainian children attended Ukrainian language schools. But it is likely that other factors have played a role as well; for instance, the conviction of many parents that in an independent Ukraine it might be advantageous for the future careers of their children to go to Ukrainian language schools.⁶⁰⁷

At the same time, he did not qualify those measures as all-embracing. He noted that the percentage of schools where the language of instruction was Russian did not nearly drop to the share of Russians in the population. The decrease also remained especially slow in the regions where this share was high, primarily in Crimea and the Donbas. Moreover, van der Stoel argued that "it would be wrong to conclude that the decline in the number of Russian language schools is an indication for a general weakening of the position of the Russian language in Ukraine".⁶⁰⁸ While the perceived evidence for this argument included not only the dominance of Russian in the (non-state) media, but also an increasing share of Ukrainians who opted for Russian as their language of convenience, the High Commissioner did not consider such an increase as a ground for the increasing use of Russian in public life. There is, therefore, good reason to believe that the HCNM did not deem the language of convenience to be the primary indicator of an individual's ethno-cultural identity, as the Russian government did in its above-quoted criticism of Kyiv's "exiling the native language of the overwhelming majority of the [Ukrainian] people".⁶⁰⁹ Accordingly, the High Commissioner preferred to focus his attention on the rights of (persons belonging to) ethnic, rather than linguistic groups. Although it may appear to be the only alternative for a commissioner on *national* minorities, one should take into account that OSCE documents provide for a broad interpretation of national minorities, which includes, *inter alia*,

⁶⁰⁶ Ibid. The meeting of experts took place on 19 and 20 January and was devoted to an article-by-article discussion of the draft, the main point in question being restrictive regulations regarding language use outside the public sector. According to a Ukrainian participant, those regulations (warned against as the state's intrusion into the private lives of its citizens and violation of its international commitments) were mostly dealt with in a note of 12 February sent by the experts of the HCNM office to their interlocutors in Kyiv with a concomitant letter by van der Stoel himself. Interviews with Marusyk, 14 February, 5 March 2001.

⁶⁰⁷ Letter by van der Stoel to Zlenko, 12 January 2001.

⁶⁰⁸ Ibid.

⁶⁰⁹ The Russian foreign ministry's note of 9 February 2001, quoted in: RFE/RL 2000a.

linguistic elements. On one occasion, van der Stoel himself expressed his understanding of a minority as "a group with linguistic, ethnic or cultural characteristics which distinguish it from the majority".⁶¹⁰ Therefore, he could, in principle, have chosen otherwise. However, this would have surely diminished the chances that the Ukrainian government would support his approach.

An analysis of the Ukrainian legislation on minority rights, which was no less favourable for Kyiv (even though at the same time, obliging), confirms this conclusion. The HCNM considered the Constitution to be "the main guarantee of the linguistic and educational rights of persons belonging to national minorities". In particular, he praised highly the constitutional provisions in which 'the free development, use and protection' of Russian and other minority languages were 'guaranteed', as well as the rights of citizens belonging to national minorities to be taught in or study their native language, in state and communal educational institutions, or through national cultural associations. Van der Stoel qualified the word 'guaranteed' in both provisions as particularly relevant:

The legislator can use no stronger expression. It means that the legislator has chosen a mandatory, and not a permissive system of granting rights. In an organic law, the legislator can formulate detailed provisions about the content of such a right, but, once the Constitution has guaranteed a right the actual exercise of that right cannot be linked to a system of licenses.⁶¹¹

This argument is obviously no less a reminder to commitments, than it is an appraisal of achievements. This is all the more so the case, because another guarantee was to be the Framework Convention for the Protection of National Minorities, which, as stressed in the letter, Ukraine had ratified, thus making it part of the national legislation. The HCNM appealed to the Ukrainian authorities to adhere to the legislative norms and administrative regulations in their implementation. These included not only the above-mentioned constitutional provisions, as well as a similar one in the law on national minorities, but also an article of the language law that declared the right of parents to freely choose the language of instruction for their children. He also mentioned a prescription of the ministry of education for the school authorities to establish a separate class with instruction in Russian in a Ukrainian-language school, if there were 8 to 10 applications (the same pertained to Ukrainian classes in the Russian-language schools). On the other hand, van der Stoel almost explicitly agreed with limiting the guaranteed right to Russian-language education to ethnic Russians only. All the above provisions were referred to as protecting the rights of "persons belonging to *national* minorities", and even the regulation for the establishment of classes with Russian as the language of instruction was believed to require a wish of "a group of 8 to 10 *ethnic* Russian citizens of Ukraine".⁶¹² Accordingly, the High Commissioner saw no violation of educational rights in the Ukrainian legislation and policies, including the reduction of the number of Russian-language schools in order to make the number conform to the share of ethnic Russians. The only problem was the due implementation:

The conclusion to be drawn about the legal provisions which provide the basis for the educational policy of Ukraine regarding the various national minorities, including the large group of citizens of Russian ethnicity, can only be that if they all applied fully in letter and spirit, such a policy meets all relevant international standards in this field. However, it has also to be taken into account that at the local level there has frequently been a tendency to interpret the relevant legislation in a way which was considered to be better adapted to the local situation. The inevitable consequence was of course that the law has not been interpreted in a uniform way. To be added to this is the fact that in the course of the years implementing decrees and directives have been issued which were not always consistent with previous ones. This is especially reason for the fear that the emphasis on bringing the percentage of pupils more in conformity with the ethnic composition of an area has worked to the detriment of the principle of free parental choice.⁶¹³

The conclusion reflected the Russophone activists' most frequent and justified complaints about administrative abuse. However, it clearly fell short of supporting their interpretation of Kyiv's legislative commitments as prohibiting any Ukrainianisation measures whatsoever, in particular, any limitations

⁶¹⁰ Van der Stoel 1993, p. 45. See also: Cohen 1999, p. 51.

⁶¹¹ Letter by van der Stoel to Zlenko, 12 January 2001.

⁶¹² Ibid. (italics added).

⁶¹³ Ibid.

on the Russian-speaking Ukrainians' right to be taught in Russian.⁶¹⁴ This becomes especially clear when one takes into account the document that was omitted in the HCNM's analysis, namely the Constitutional Court's decision of December 1999. It is inconceivable that it could have been overseen or qualified as irrelevant to the problem. Therefore, one can only assume that the High Commissioner consciously avoided mentioning the document, which he preferred neither to praise nor denounce. Perhaps he considered it too important for Kyiv's policies and, therefore, could not hope for it to be revoked (after all, there was no mechanism for cancelling the Constitutional Court's decisions) nor did he want to provoke unnecessary discontent from the Ukrainian government. Moreover, although the decision sent a political message that was potentially restrictive with regard to the rights of Russians, it did not actually infringe upon them, at least as far as education was concerned, beyond a degree which van der Stoel believed to be justified. The document was thus implicitly included in the bulk of legislation, which was, if fully applied, in conformity with international norms. This point obviously contradicted perceptions that had been expressed by the Russophone organisations and the Russian government, as well as their expectations of the HCNM's involvement.

Accordingly, the recommendations which resulted from the analysis were aimed at ensuring that legislative provisions on the educational rights of Russians, as well as other minorities, be fully retained and duly implemented. In addition to the above-quoted general appeals to avoid changes "to the disadvantage of the various national minorities", or implementation "through restrictive measures regarding minority languages", the letter contained specific suggestions on both aspects. First, the High Commissioner called for the retention of the provision regarding the free choice of language of instruction, which had been omitted from the governmental draft on the new language law. The HCNM considered the principle of parental choice to be "a cornerstone for any policy aimed at providing equal educational rights for all ethnic groups in Ukraine". Second, he deemed it "desirable to ensure more clarity regarding the right of parents to request the setting up of a Ukrainian language class in a Russian language school or of a Russian language class in a Ukrainian language school". School boards should be "obliged to inform parents annually that such possibilities exist", and notify them "if one or more parents have taken the initiative to apply for a separate class". Moreover, to secure parental rights in general, the High Commissioner also recommended that "a more transparent complaint system be set up at the local level, with the possibility of appeal at the central level".⁶¹⁵ If implemented, these proposals would have doubtlessly reduced the authorities' abuse in a perceptible field and, therefore, the discontent of the Russian population.

Two further recommendations, while also reacting to complaints from the Russophone activists, went beyond ensuring educational rights of the Russian minority. In one of them, the HCNM expressed "the hope that the process of ratification of the Council of Europe's Charter for Regional or Minority Languages will be completed as soon as possible". Only an insignificant number of Russians, even those willing to assert their linguistic rights, were aware of its very existence, not to mention the story of the failed ratification. Therefore, mentioning this point can probably be explained with van der Stoel's own dissatisfaction with Kyiv's efforts to prevent the ratification law of December 1999 from entering into force. In this case, he did not stipulate which level of commitment he would prefer to get fixed in the new law.⁶¹⁶ However, another recommendation clearly pertained to 'more than minority' rights of the Russian language. The High Commissioner argued that "[i]n Ukraine, it is generally recognised that, even though Ukrainian is the state language, the Russian language remains quite important for the country as well". A high percentage of pupils in the Ukrainian-language schools who learned Russian as a subject (26.6 per cent) was seen as both evidence and a natural consequence of its importance. Accordingly, the fact that Russian was no longer a compulsory subject in schools where instruction was in Ukrainian could not be qualified as satisfactory. Moreover, an imminent correction of study-plans which was intended "to determine the optimal proportion" of the parts to be taught in official and

⁶¹⁴ Further proof of this argument is that the analysis and recommendations regarding educational rights are limited in the letter to school education only, thus failing to support the Russophone claims to retaining institutions of higher education in Russian as well.

⁶¹⁵ Letter by van der Stoel to Zlenko, 12 January 2001.

⁶¹⁶ Another reason to believe that the HCNM called for ratification as a political act rather than wishing it to amend or strengthen the legal basis of protecting Ukraine's minorities is the charter's shift of the focus from ethnic to linguistic groups which he did not support in his analysis. However, he was probably aware that the annulled act of December 1999 had retained the ethnic criterion and might have believed that it would be done in a new law as well.

minority languages (in accordance with the above-mentioned governmental decree, which was brought into force in June 2000), was perceived by Russophone activists as aimed at further reducing the scope for learning (in) Russian. This aspect of the problem therefore also acquired a clear political dimension. As a result, the HCNM appealed to the government, when deciding on new study-plans, to "ensure that there will be adequate opportunities for learning the Russian language in Ukrainian language schools".⁶¹⁷

This suggestion was quite reasonable with regard to facilitating the Russophones' acceptance of the educational practices that were aimed at enhancing the role of Ukrainian, because switching to instruction in Ukrainian would not mean that many pupils would lose the opportunity to learn Russian as a subject. Moreover, it was consistent with the general motto of the HCNM's involvement regarding the language policy, namely avoiding any restrictive measures with regard to minority languages. This motto had been applied in his recommendations not only with regard to Russian, but also to Crimean Tatar. However, given that van der Stoel explained the proposal by emphasising the current prominent role of Russian in Ukrainian society, it could well be perceived as intended to protect this inherited prominence (rather than to ensure the possibility of preserving ethno-cultural identity for pupils whose parents would have "the conviction (...) that in an independent Ukraine it might be advantageous for the future careers of their children to go to Ukrainian language schools").⁶¹⁸ Therefore, the proposal might seem to question his declared intention to view post-Soviet Ukrainianisation policies from the perspective of Soviet Russification. Such a disapproving perception was all the more probable because of a feature that the recommendation on learning Russian in Ukrainian-language schools shared with the one on establishing Russian-language classes in such schools. This feature was the lack of differentiation with regard to regions and the respective strengths of Russians/Russophones vis-à-vis Ukrainians/Ukrainophones in them. The proposed measures were completely justified as a means for protecting the Russian minority in the western, as well as some central, oblasts, where it had few possibilities for preserving its identity; in particular, when there were very few or no schools with Russian as the language of instruction, and not many schools that retained it as a subject. However, these measures would have seriously undermined efforts enhancing the role of Ukrainian in the Donbas or Crimea, where Russian still overwhelmingly dominated. For the latter regions, the expedience of learning Russian in all schools, regardless of their language of instruction, should be motivated precisely by it being the language of a majority, but establishing Russian-language classes in scarce Ukrainian-language schools would no doubt be counterproductive.

The foreign minister's reply of 6 April 2001 gave little reason to believe that the Ukrainian government was going to make an effort to implement the High Commissioner's recommendations. Zlenko did not fail to stress the importance for Kyiv of van der Stoel's "high assessment" of current Ukrainian legislation, as well as his taking into account the "historical dimension" of the language problem in the country. He was no doubt well aware of how this assessment would help his government counteract criticism of its policies, in particular in international forums. Nevertheless, he only mentioned the importance of a different kind, namely as a stimulus for "further democratic developments of state policy and practical measures in the field". Accordingly, the minister assured the HCNM that his conclusion and recommendations "will be taken into account and used in [the] day-to-day-practical activities" of the relevant Ukrainian authorities. This seemed to be confirmed by the fact that, in addition to the usual reference to the recommendations "being carefully studied by state institutions of Ukraine",⁶¹⁹ an appendix was attached to the letter which contained detailed information on the state of their implementation. However, the information included there mostly presented the recommendations as having already been implemented in relevant legislative and normative acts, while ignoring the High Commissioner's emphasis on the inadmissibility of reducing the scope of rights provided by those acts and on adhering to their letter in administrative practice. Thus, the appendix did not mention any measures to ensure the practical implementation of the provisions on establishing Russian-language classes or the parents' right to appeal to the central authorities in the case of unlawful actions by local administrations. Similarly, the government failed to declare its readiness to include a provision on the parental choice of language of instruction in the draft language law. The only definite intention was to

⁶¹⁷ Letter by van der Stoel to Zlenko, 12 January 2001.

⁶¹⁸ Ibid.

⁶¹⁹ Letter by Zlenko to van der Stoel, 6 April 2001.

submit to the parliament "all necessary documents" for ratification of the European Charter for Regional or Minority Languages.⁶²⁰

None of the HCNM's recommendations had been implemented by the time this study was completed. While the drafts of the new language law were deliberated upon by the Verkhovna Rada in November 2001, the parliamentary leadership did not put them to vote, probably in order to prevent the adoption of a draft giving Russian an official status, which many deputies might have chosen to support in hope of electoral dividends. Therefore, no decision had been made by the last parliament by the time it finished its work in March 2002. Similarly, the Rada failed to ratify the European charter, which some influential forces still hope to use as a means of strengthening the position of Russian. Both these controversial issues will hardly be given priority by the new composition of the parliament, whose members are expected to focus on fundamental political and economic problems. While the ratification may be facilitated by pressure from the Council of Europe, it is quite possible that the draft language laws will have to wait for several more years. Paradoxically, this would mean the retention of the current scope of minority rights, in particular the right to choose the language of instruction, and thus implementation, even if in a surrogate form, of the High Commissioner's respective recommendation. On the other hand, one can forecast that the Ukrainian government will not dare to revise the fundamental legislative provisions on minority rights, at least in view of the probable negative reaction of international organisations, nor will it deem this necessary for achieving the nationalisation goals. Although the prominence of these goals in Kyiv's political agenda also cannot be taken for granted (in particular, their importance diminished significantly after the dismissal of the Yushchenko government in May 2001), the very orientation towards widening the use of Ukrainian at the cost of Russian will probably remain a permanent feature of the (central) state policy. That would mean that, while refraining from overtly restrictive measures regarding Russian, the government will probably be tempted to resort to discouraging measures in order to make its efforts to enhance the role of Ukrainian effective. As far as the HCNM's recommendation on establishing Russian-language classes in Ukrainian-language schools is concerned, it may appear to be treated as irrelevant in the East and South where schools with Russian as the language of instruction are by no means lacking, and largely ignored by local authorities in the West (be it because of their own inclinations towards nationalisation or because of pressure from the influential nationalist parties). At the same time, a transparent complaint system will only be possible if administrative abuse is generally curbed, that is, if genuine rule of law is established in Ukraine. Unless/until this takes place, infringement on the Russians' 'guaranteed' rights can only be reduced by appeals of Russophone organisations to European institutions and/or Moscow.

4.7 Conclusion

The two attempts of the HCNM to contribute to solving the problem of the Russian language in Ukraine and diffusing the respective potential for an (ethno-)political conflict, while differing in their motives and contexts, had much in common. On both occasions, the High Commissioner chose to intervene when the potential for disagreement was far from developing into overt confrontation, and he aimed at preventing a negative effect on inter-ethnic relations, which the conflicting interests of the political actors might have caused. Accordingly, he suggested that a policy to enhance the role of Ukrainian should not involve restrictive measures with regard to Russian. In 1994, van der Stoel believed that this could only be achieved by amending the legislative basis and by revising some of the government's strategic goals in the language policy. In 2000, he came to the conclusion that the legislation should possibly be retained, and the goals further pursued if they were stripped of administrative abuse. The first attempt had virtually no consequences on Kyiv's policies, nor on preventing a conflict that these policies could have caused. At that time, the problem of Ukrainian Russophones was neither prominent for Kyiv nor Moscow who might have tried to use the High Commissioner's involvement for their respective purposes. On the other hand, the relevant actors in Ukraine had little knowledge of the very existence of the HCNM as an institution, not to mention the substance of van der Stoel's recommendations; moreover, they did not need outside mediation. The second attempt helped prevent the further escalation of tensions between the Ukrainian government and its critics. The HCNM largely

⁶²⁰ Information on implementation 2001.

approved the actions of the former, thus questioning the legitimacy of the accusations that have been raised by the latter. At the same time, he warned against taking tougher actions, which could lead to more vehement accusations. In both cases, however, the result has actually been the same. Kyiv was able to go on with its policies, which were disliked by (a part of) the Russophone population, while possibly making some corrections aimed at avoiding electoral protest or sanctions from Moscow. Moreover, the HCNM, in effect, rewarded such persistence, in particular regarding the rejection of his former recommendations. He gave those policies in his latest letter more credit than he had six years before, and based his new proposals on their results, which he perceived as a *fait accompli*.

As far as a policy results in the originally protesting group adapting to the changing social reality, and thus diffusing an existing conflict potential, the policy can be considered effective. Hence, its appraisal and (warning) support is reasonable. In this sense, a shift in van der Stoep's approach seems to be quite justified. Moreover, his dealing with the issue in face of its recent reactivation appears to be adequate judging by the delicate context of his involvement. On the other hand, the very fact that the reactivation occurred may be seen as evidence of the persistence of the underlying problem, namely the controversy between the demands and interests of the two main ethnic/linguistic groups in Ukrainian society. The state policy did not manage to remove this controversy by facilitating a compromise. Instead, as argued above, it gave both groups grounds for discontent. From this perspective, the High Commissioner's intervention can be qualified as having failed to promote a dialogue between representatives of the groups and the authorities, in which contours of such a compromise could have been drawn. Obstacles to the HCNM's moving in this direction are obvious. The willingness of the authorities was far from certain, while other ethno-political actors might not seem to be influential among the masses, nor ready for constructive discussions. This may have been the reason why the potential that was present in the Odessa seminar was not developed. As a result, the HCNM's involvement in language matters failed to contribute to the formation of democratic mechanisms in Ukrainian politics, even to the degree that his dealing with the Crimean and Crimean Tatar problems did.

Chapter 5. Conclusions: Effectiveness of the HCNM Involvement

The above analysis of the political and legal context of the formulation, perception and (non-) implementation of the High Commissioner's recommendations regarding three major (ethno-)political problems of Ukraine enables an assessment of the effectiveness of his involvement in the country. While attempting such an assessment, one should take into account various factors, including the accuracy in choosing the problems to be (primarily) dealt with and the time for him to step in, the adequacy of the measures taken by the HCNM and the solutions suggested in his recommendations, as well as, of course, the involvement's results in the sense of its contribution to solving the problems and promoting the fundamental values of the OSCE. One has also to keep in mind the resources at the High Commissioner's disposal, in order to judge whether he could have behaved in another way and whether it could have been more successful. The latter problem, however, requires deep insight not only into possible limitations on his activity resulting from an unfavourable internal political context, but also into the anchoring of that activity into the OSCE institutional framework, in order to identify both contributions of other actors and further limitations they might have imposed on the HCNM's efforts. The question of this kind of anchoring is beyond the scope of this study and thus will be touched upon here only marginally.

In evaluating the High Commissioner as an instrument of conflict prevention, we should keep in mind the substance of this notion, as both conceived by the OSCE participating states, which created the mandate of this new institution, and comprehended by the person whose activity has been analysed in this study. In particular, van der Stoel indicated his view that "[t]he CSCE's comprehensive concept of security relates peace, security and prosperity directly to the observance of human rights, fundamental freedoms and democratic principles".⁶²¹ He distinguishes between short-term and long-term conflict prevention, where the former "aims at the prevention or immediate correction of flagrant violations of human dimension commitments which may cause an escalation". The latter "is really about building a viable democracy and its institutions, about creating confidence between the government and the population and groups within the population, about structuring the protection and promotion of human rights, and about fostering tolerance, understanding and mutual acceptance in society".⁶²² Although the mandate puts the High Commissioner, according to van der Stoel's own perception, "first and foremost in the category of short-term conflict prevention", he was quite aware that he could not "pass by the important longer-term aspects of the situations" he dealt with, because "[a] longer-term perspective is necessary if sustainable solutions are to be achieved".⁶²³ Therefore, the analysis below will pay attention to both short-term and long-term aspects of the HCNM's conflict prevention efforts and seek to assess their consequences for these aspects' respective primary aims, de-escalation and democracy building.

While hopefully contributing to better understanding the High Commissioner as an instrument of conflict prevention, the attempted assessment does not claim to explain theoretically the instrument's (in)effectiveness in the Ukrainian case, but rather to provide empirical material for such an explanation.⁶²⁴

5.1 *Expedience and Timing*

As argued above, in two of the three problems addressed by the HCNM in his recommendations, the expedience of his intervention appears indisputable. The controversy between Kyiv and Simferopol over the scope of powers of the Crimean authorities could have pushed the latter the way of other sovereignising autonomies in the post-Soviet space, i.e., to violent means of asserting their interests. Given the probable (even if unofficial and inconsistent) involvement of the Russian Federation, a bloody, protracted and destabilising conflict which would have resisted any normalisation efforts

⁶²¹ Van der Stoel 1993b, p. 50.

⁶²² Ibid., p. 51.

⁶²³ Ibid., p. 50-52.

⁶²⁴ For a detailed discussion on how such an explanation could look, see: Zellner 1999.

could have resulted. As for the conflict between the autonomy's authorities and the Crimean Tatar minority, it repeatedly transcended a threshold of violence and bloodshed; moreover, both the obvious violation of basic rights of that minority's members and a high level of their mobilisation made further escalation of the conflict quite likely. Another factor legitimising the HCNM's intervention with these two conflicts was that their coinciding territorial localisation made an escalation of one of them a catalyst for an escalation of the other.⁶²⁵

In contrast, linguistic rights of the Russian/Russophone population were hardly violated, at least not in the Donbas, which the High Commissioner referred to while discussing this problem in his initial letter to the Ukrainian foreign minister. The primary question in dispute between the central and regional authorities was (like in the Crimean case) the powers of the latter, a fact that van der Stoel was quick to realise and take into account. Nevertheless, he deemed it also relevant to deal with the language problem and the conflict potential it bore. Although the regional elites could mobilise mass protest against Kyiv's allegedly discriminating language policy and launch a non-compliance strategy according to the Crimean pattern (which the local polls of March 1994 in the Donbas might be seen as the beginning), by the time of the HCNM's intervention, the tensions did not develop into an unequivocal conflict. The intervention thus can be qualified as an attempt at 'conflict prevention at the earliest possible stage', in full accordance with the letter of the mandate and with the spirit of van der Stoel's (and Kyiv's) striving to exclude eventual involvement of Moscow. This is all the more so the case, as the conflict between Kyiv and the Donbas (the latter probably being supported by some other eastern and southern oblasts), in addition to the escalating controversy over the status of Crimea, and against the background of unresolved problems in Ukrainian-Russian relations would, at least in the eyes of the West, have increased the danger of the break-up of Ukraine and ensuing destabilisation throughout the region.⁶²⁶ Because actualisation of the conflict potential could only result from instigating activities of the regional elites or the Russian authorities, it is no wonder that this potential significantly diminished after the former had lost interest in using it, and its increase did not seem probable until the efforts of the latter were intensified. Accordingly, there was a long break in the High Commissioner's involvement in the problem, but his second attempt, in 1999-2000, was made with no imminent (domestic) escalation in sight, either. This time, the expedience of the involvement stemmed, first of all, from an explicit request of the Russian government.

With regard to the Crimean and Crimean Tatar problems, van der Stoel had to deal with more visible, developed conflicts which had emerged prior to his assuming the post. Nonetheless, he was not prompt to get involved during relatively quiet stages that both conflicts went through in 1993, and he did not even make an active intervention until they reached their respective peaks in the spring and summer of 1995, quite a long time after his initial visit in early 1994. It is quite clear that during his first year in office, when he had to build an effective team, elaborate working principles and become familiar with all minority conflicts in the OSCE area, he could only deal actively with the most pressing of issues. However, the same reason is hardly sufficient to explain the fact that later the High Commissioner did not address (or at least not more so than by suggesting involvement of OSCE experts and a long-term mission) the problems whose destabilising potential he was no doubt already aware of. As a matter of fact, one of the escalation periods in the Kyiv-Simferopol conflict, in the spring of 1994, coincided with the HCNM's first visits to Ukraine and a first batch of his recommendations. At that time, however, he was able and/or willing to formulate only general principles of a solution to be suggested later, namely territorial integrity and broad autonomy. Each principle supported the top priority of one of the parties, but was defined loosely enough to be acceptable for the other party as well. Although he no doubt needed some time to familiarise himself with the parties (through personal communication and information provided by the expert team and the Mission) and establish himself as an independent and impartial mediator between them, his delay in taking more active intervention and making more specific recommendations also had much to do with his waiting for both parties to become 'ripe' for this kind of mediation.⁶²⁷ The Ukrainian government was probably

⁶²⁵ Although there was no foreign state ready to actively support the Tatars, a violent conflict provoked by their demands might not only have drawn Moscow in (as the peninsular Russians would inevitably get involved), but may also have destabilised the geopolitical situation in a very vulnerable region.

⁶²⁶ Kemp 2001, p. 218.

⁶²⁷ For the concept of 'ripeness', see: Mitchell 1995; Lund 1996, p. 133; Johansen 1999, p. 42.

ready to accept his mediation, as early as spring 1994 in order to stop escalation of the conflict and prevent Russia from intervening on the separatists' side (indeed, as mentioned above, striving to keep Moscow out of the conflict was a reason for Kyiv's inviting the HCNM and other OSCE actors). In contrast, the Crimean leadership hoped by then for support on the part of Russia and were not willing to look for a compromise with(in) Ukraine. It was not, therefore, until their realisation of Moscow's reluctance to get heavily involved and Kyiv's strength and resolution to impose its own solution of the problem that Simferopol became ready for another third party (of which the HCNM had, by then, managed to establish himself as an acceptable option, as demonstrated by the autonomy's parliament appeal for his mediation in April 1995).⁶²⁸ One may also suppose that, although the High Commissioner accepted the Crimean autonomy as a political reality to work with (contrary to other countries of his involvement where he did not consider territorial autonomy as a possible solution⁶²⁹), he preferred basing his compromise suggestions on a scope of Simferopol's powers that would be more in line with the autonomy standard - rather than that of sovereign states - which Kyiv's curtailing measures of March 1995 had provided for.

As for the conflict between the Crimean Tatars and the peninsular authorities, not only were the latter opposed to the idea of any concessions to the former, but the Ukrainian government also took the problem, for a long time, as subordinate to that of the Russian separatism which it did not want to further aggravate by meeting the returnees' demands. While the clashes of June 1995 demonstrated to Kyiv the strength of the consolidated Tatars and an urgent need to solve their problems, they were also used as a pretext for further strengthening the central control over the peninsula. Therefore, the Ukrainian government preferred a mediating (or rather pacifying) role in settling the internal Crimean conflict for itself. In contrast, it tried to channel the High Commissioner's efforts (as well as those of other international agencies) in the direction of creating external preconditions for such a settlement by raising international aid for the former deportees' resettlement and putting pressure on the CIS states to ensure financial and other contributions. At the same time, the autonomy's authorities were still reluctant to meet the political demands of the Kurultai/Mejlis and did not view the HCNM as a very impartial mediator in this conflict (after he had unequivocally supported the claim for the Tatars' guaranteed representation in the Crimean parliament). Only the Tatars themselves, striving for internationalisation of the problem, really welcomed his involvement. Thus, there could not be a propitious time for the High Commissioner's stepping in, and his only chance of getting relatively favourable conditions for his activity was to bring it into line (or at least present it as being in line) with Kyiv's fund-raising priority. This helps explain why he did not intervene immediately after the June events (like he did in similar situations in other countries), but only emerged as an actor relevant for solving the problem three months later, after the Ukrainian government had formulated its comprehensive programme for the solving of the problems which contained an important international dimension that Kyiv could hardly implement unaided.

This kind of a "reactive" intervention is to be explained, as Johansen argues, by the High Commissioner's feeling a lack of sufficient "weight" behind his efforts which could have enabled an element of indirect coercion in his involvement. While those efforts were supported by the OSCE Chairmen-in-Office and, less strongly, by the Permanent Council, influential member states either lacked sufficient leverage for the pressure (in particular, since Ukraine was not among the primary candidates for the EU or NATO) or had other priorities and channels for the exercising thereof.⁶³⁰ To be added to this is the fact that other international organisations did not consider minority-related issues a high priority in their dealings with Ukraine, either. The EU and NATO were mostly preoccupied with economic reform, security problems, civil control over the military field, and overall democratic transformation in

⁶²⁸ Johansen 1999, pp. 86f, 94; Mychajlyszyn 1998, p. 43. Although strengthening of their position diminished the Ukrainian authorities' interest in the OSCE mediation, the Crimean Soviet remained capable of destabilising moves which Kyiv could not easily prevent/counter. In any case, there were enough reasonable actors in the centre who strove for a compromise and welcomed any contribution to finding it (as evidenced, in particular, by their readiness to follow the HCNM's recommendations both in May 1995 and March 1996).

⁶²⁹ It should, however, be kept in mind that, contrary to other countries where *establishing* a territorial autonomy was not supported by the HCNM, in Ukraine he preferred *retaining* an already existing autonomy. Johansen 1999, p. 93.

⁶³⁰ Those states mostly dealt with Kyiv on a bilateral basis or, in the case of the West, through more particular and cohesive organisations like the EU or NATO. As for Russia, whose pressure could have been crucial for the Crimean leadership's earlier 'ripeness', it did not seem (initial hopes notwithstanding) to have found the HCNM really useful in promoting its interests. Johansen 1999, pp. 93ff.

the country. The Council of Europe, while paying considerable attention to the Crimean problem prior to deciding on Kyiv's admission to the organisation, in the following years used its coercion leverage primarily to promote legal reform (with a noticeable stress on abolishing the capital punishment) and counter undemocratic trends in Ukrainian politics, such as curtailment of the freedom of the press and presidential infringement upon the powers of the legislative. Although this division of priorities might be seen as evidence that the HCNM was chosen as the 'prime mover' of the West in dealing with Ukraine's minority problems, that choice should have been demonstrated in more active backing of his recommendations by actors capable of using 'a carrot on a stick'. Actually, there was little co-ordination even within the OSCE, and relevant bodies, such as the Office for Democratic Institutions and Human Rights or the Parliamentary Assembly did not address issues that the HCNM dealt with. In contrast, the High Commissioner could rely on the support of the OSCE Mission to Ukraine which largely served as his assistant for gathering information, establishing contacts and promoting implementation of his recommendations,⁶³¹ all the more so because of the fact that the somewhat limited scope of the Mission's activities provided for by its mandate impeded its assuming a more active role.⁶³²

5.2 *Substance of the Intervention*

Accordingly, the High Commissioner's intervention could only be successful if he adapted his role to these limited possibilities. His intervention was thus to be (unlike in countries with more 'weight' behind him) less proactive and more mediating. Therefore, steps he suggested could only appeal to both/all parties' sense of their respective interest, i.e., he could only propose to each of them near maximum achievement of what they might realistically count on in a given situation but difficult to attain without such mediation. He had to provide the parties (once outside factors made them 'ripe') with an otherwise nonexistent channel for negotiations and identify a mutually acceptable compromise solution.⁶³³ In checking whether and how he did that, and whether and why he went beyond that, we should look at the tools he used, aspects of the problems in question he paid primary attention to and remedies he recommended. Of primary importance for the analysis will not only be the HCNM's skill in suggesting compromise within the mediation role, but also his ability to contribute to settling the conflict in situations when such a role was not possible or relevant.

For the Kyiv-Simferopol conflict, van der Stoep's mediation was facilitated by the fact that there were two clearly defined parties to deal with and, since the time of their 'ripeness' in spring 1995, there existed an obvious aspect of recognised (even if unequal) importance for them, namely the adoption and approval of the Crimean constitution. Accordingly, the High Commissioner could concentrate on this one aspect (while leaving aside the other - supposedly subordinate - legislative and administrative issues which the parties disagreed about) and try to specify the general principles he had formulated earlier. Moreover, the very procedure of the constitution's coming into force required participation of the two parties, and they not only recognised the importance of negotiations on the matter (i.e., did not question legitimacy of each other), but were actually engaged in such negotiations at virtually all stages of the conflict. However, the resource of peaceful interaction was gradually being exhausted as solutions agreed upon by the negotiating groups were not translated into formal decisions of the two parliaments, which were ready to assert their respective interests, regardless of whether they left any space for a compromise.⁶³⁴ Thus in April-May 1995 and March 1996, the Crimean parliament's plans to hold a referendum and the Ukrainian leadership's will to prevent them from being realised created the perceptible danger that the conflict would escalate to a violent stage.

⁶³¹ See also a discussion on relationship between the HCNM and OSCE missions: Cohen 1999, pp. 89-90.

⁶³² As implied in chapter 2, the first HOM, Andreas Kohlschütter, had more ambitious view of the Mission's (and his own) role and did not always support the HCNM's view of the situation and measures to be taken by the OSCE bodies. Under his successors, such controversies do not seem to have taken place.

⁶³³ Johansen 1999, pp. 95-96. Johansen argues that these functions did not require a heavy 'weight' behind the HCNM's efforts, but rather a legitimate basis for them (which his status of the OSCE representative and preliminary contacts with the parties provided for), as well as mediator skills, which he clearly demonstrated.

⁶³⁴ While the peninsular actors stressed that Kyiv's alleged failure to adhere to informal bilateral agreements made them resort to such assertive moves, their counterparts in the centre did not attach much value to such agreements, insisting instead on observation of the Ukrainian legislation as the only ground for a compromise, hence, in effect, on the unequal status of both parties.

These crisis situations were skilfully addressed by the High Commissioner with the round tables in Locarno and Noordwijk, which drew key representatives of the two parties into an informal dialogue under the conditions of confidentiality, where readiness for a compromise could be demonstrated without a fear of losing political face.⁶³⁵ The very fact that influential politicians and high officials on both sides agreed to discuss ways out of the deadlock under an outside mediator's guidance demonstrates both their 'ripeness' for such mediation and the High Commissioner's recognised authority. (This stemmed mostly, at least in the first case, from his authority as an OSCE representative, as a member of a team also including the Mission more familiar to the participants because of frequent previous contacts.) His primary task was to suggest urgent measures intended to de-escalate the conflict and prevent its transition to a less manageable stage. In particular, the HCNM sought to preserve and strengthen available dialogue channels both by preventing moves which could destroy them and by demonstrating the effectiveness of the dialogue to the parties (which, given his obvious catalyst role, would also further strengthen his authority). Accordingly, the mediator presented the recommendations as solutions identified by the participant themselves, which probably made them more acceptable for most of the participants and some other influential actors in Kyiv and Crimea. Their declared support notwithstanding, van der Stoel preferred to apply further pressure to ensure that the solutions were indeed implemented, either by personally appearing in Ukraine during their consideration by the Verkhovna Rada or through the diplomats of the Mission.⁶³⁶

However, the measures suggested at the crisis moments, which aimed first and foremost at urging the parties to refrain from further confrontational moves, envisaged only rather vague principles on which a future stable compromise was to be based. Immediate acceptance of these suggestions, therefore, was but an initial step towards the success of the High Commissioner's intervention, a precondition for his medium- and long-term prevention efforts. While the vagueness of mutual political commitments made them acceptable as the price for de-escalation, the crucial factor of further progress was the willingness of the parties to (or the mediator's ability to make them) adhere to those commitments at later stages of (settling) the conflict. Such willingness was lacking both in Kyiv and Simferopol, but a deep-rooted prejudice of the former against mutually binding agreements with the allegedly subordinate latter made it particularly inclined to disregard earlier compromises. Accordingly, the central authorities tried to take advantage of the achieved de-escalation (which left the Crimean parliament without its primary means of resisting Kyiv's pressure) in order to shift the domain of possible compromise in a direction preferable for their centralist interests. Moreover, a broader political context was not favourable for the High Commissioner's efforts, as there was no influential force in Ukraine unequivocally committed to (compromise) settling of the Crimean problem, and the controversy over the national constitution further impeded co-operation between two principal rivals, the communists and the nationalists. At the same time, the struggle for power and lack of pragmatism impaired the readiness for compromise of the Crimean deputies to no less extent. Finally, apart from Russia, no important international actor seemed to put pressure on the parties towards a settlement. Under these conditions, the HCNM could hardly expect to ensure the reflection of compromises implemented earlier in the later decisions of the parties regarding the Crimean constitution.⁶³⁷ He thus tried to adapt his suggestions to the changing context, in particular, to Kyiv's toughened position regarding Simferopol's powers (which, at the same time, was closer to his own view about which prerogatives an autonomy might have). However, this did not make his efforts to develop the round-table agreements into more durable and encompassing solutions nearly as successful as the two de-escalation interventions had been.

⁶³⁵ Cohen qualifies round tables convened by the HCNM in several countries where he was involved as "an innovative adaptation of different types of second-track problem-solving approaches" which had been originally conceived as a dialogue of "influentials", i.e., individuals close to but not directly engaged in the decision-making process, in order to influence first-track negotiations. Van der Stoel "has straddled the tracks by bringing together high level political and governmental representatives, but maintaining an informal facilitative approach". Cohen 1999, p. 71. In the case of the two round tables under consideration, the level of representatives of the two parties was not equal (considerably lower on the Ukrainian part), but nearly as high as possible (top statesmen could hardly be expected to devote several days to such informal discussions). Moreover, key figures of the relevant decision-making in the Verkhovna Rada were both first-track actors and "influentials" with respect to its leadership.

⁶³⁶ While a (perceived) pro-Simferopol bias of Kohlschütter's speech in May 1995 provoked Kyiv's suspicion of the mission and, to an extent, of the OSCE mediation role in general, it may have contributed to the accepting by the Crimean parliament of the Locarno recommendation on cancelling the referendum.

⁶³⁷ Accordingly, van der Stoel did not try to publicise informal agreements, in order to encourage the parties to adhere to them. On his use of this means in other countries, see: Kemp 2001, p. 80; Cohen 1999, pp. 75-78.

While general political solutions with rather vague and non-binding legal meaning proved acceptable for both parties, more specific recommendations regarding controversial articles of the autonomy's draft constitution were implemented only to a degree that a party favouring them was willing and able to make the other one accept them, too. The very nature of such substantial recommendations, which expressed the High Commissioner's attitude towards recognising in the constitution specific powers of the Crimean authorities, made each of them favourable for one party only. Although a pragmatic 'package deal' based on his proposals was in principle possible, his support of Kyiv's position on several symbolically charged issues (mostly pertaining to powers that implied a sovereign state) ruled out Simferopol's assent to the package suggested. While the support of an authoritative international institution might be perceived (and used in further negotiations) by the Ukrainian authorities as a factor legitimising their insistence, more important factors were no doubt their increasing ability to put pressure on the Crimean ones and the readiness of the latter, after the elections of 1998, to quit symbolic claims in order to save substantial powers. A resulting deal, as embodied by the autonomy's constitution, which was finally approved by the Ukrainian parliament, appeared thus to be close to the latest recommendations of the HCNM, given that they were more favouring to Kyiv's position than the previous ones.

However, this accordance (often referred to, alongside of the de-escalation effect of the round tables, as evidence of successful intervention⁶³⁸) demonstrates van der Stoel's realistic assessment of how an eventual compromise could look, rather than his ability to ensure its realisation. The unfavourable context discouraged the High Commissioner from turning to a more proactive style or extending his involvement to other documents relevant for defining the autonomy's powers. During nearly three years between the Noordwijk round table and the ratification of the Crimean constitution in December 1998, he neither made new active attempts at intensifying the dialogue between the parties in order to achieve a breakthrough in their coming to a compromise based on his latest recommendations, nor suggested a new 'package' they might be more ready to accept. Perhaps he came to realise that what the parties needed was not mediation or recipes for a compromise, but rather the political will to reach it, which he could hardly facilitate. Meanwhile, his persistent concentration on just one aspect of the problem proved highly vulnerable at the final stage of the Ukrainian constitutional process in June 1996, which could have crossed not only the compromises agreed upon in Locarno and Noordwijk, but also the very principle of a substantial autonomy for Crimea on which they had been based. On the one hand, this stage could not but show the HCNM limited chances of further active intervention. On the other, the adoption of a Ukrainian constitution providing for an autonomy, which he perhaps considered substantial enough to meet Simferopol's reasonable demands, might make him think that such intervention was no longer necessary. In any case, he did not issue further recommendations on the problem and (as the reports suggest) paid it ever less attention during his visits to the country. Accordingly, he made no attempt to ensure legislative acts aimed at making the declared autonomy workable and irrevocable, that is, to supplement his achievements with long-term conflict prevention. He failed to promote not only the establishment of the Constitutional Court as, *inter alia*, a legal guarantor of the autonomy's rights,⁶³⁹ but also implementation of the constitutional provisions in laws on the Crimean representative body (which had mostly provoked escalation of the conflict earlier and was still able to do so at least until more pragmatic deputies took seats in spring 1998).

The High Commissioner's involvement in the Crimean Tatar problem took place in an even less favourable context and, accordingly, was less impressive (but not necessarily less effective). Major difficulties included the overlapping of this conflict with the Kyiv-Simferopol one that two of its principal parties considered to be of primary importance, the very presence of three, rather than two, parties which had to be dealt with and the fact that two of them denied the legitimacy of the third, the Kutultai/Mejlis. Moreover, positions of the parties radically differed on a number of issues, and the Tatar leadership opposed the reduction of the problem to one or two of them, which impeded concentration of the HCNM's efforts. Finally, 'ripeness' of the central and Crimean authorities for his intervention

⁶³⁸ See e.g.: Johansen 1999, p. 89. The very assessment of the intervention as a success has much to do with limiting it to two most prominent episodes and the result. Neither are two other conflicts, those related to the rights of the Crimean Tatars and Russians, featured in this success story.

⁶³⁹ Van der Stoel might consider this matter, like adoption of the national constitution itself, too fundamental for the Ukrainian political system and rather vaguely related to the minority issues for Kyiv to allow his involvement.

was, in this case, contributed to primarily by the Tatars' protest actions, which were capable, at the same time, of provoking dangerous escalation of the conflict. While trying to prevent the Mejlis' resorting to violence, van der Stoel thus sought to engage an outside leverage, which would facilitate the other parties' readiness to compromise. Contributing to the world's greater awareness of the problem and raising funds for social demands of the returnees was a good means for both ends, as it not only discouraged the Tatar masses from protest actions, but also created preconditions for eventual international pressure on the Ukrainian government to ensure their political and cultural rights (furthermore, as argued above, it was mostly because of this dimension that Kyiv agreed to the High Commissioner's involvement in the problem). At the same time, the HCNM sought to draw the parties into an institutionalised dialogue which would make it possible for them to come to a compromise. The round table in Yalta was intended to promote both awareness and dialogue,⁶⁴⁰ but was only successful in fulfilling the former task. By then, Kyiv and Simferopol were only ready to dialogue as "a surrogate for action,"⁶⁴¹ and the Mejlis wanted neither to accept such a surrogate, nor to limit the Crimean Tatar problem to its social dimension only.

Therefore, the High Commissioner's involvement went beyond the limits of mediation, as the parties were far from being 'ripe' and the solutions he suggested were not compromise ones, i.e., they favoured the Tatars much more (indeed, some of them clearly supported the Mejlis' demands) than the Crimean and Ukrainian authorities (as well as the respective ethnic majorities they represented). Since the Tatar protests, though capable of temporary destabilisation on the peninsula and of considerable damage for Ukraine's international reputation, could not really challenge the sustaining of the regime, the recommendations meant, in effect, unilateral concessions on the part of the latter. While mostly justified in the sense of human rights, they were not quite realistic politically. Van der Stoel might have hoped for Kyiv's realisation of the usefulness of the Crimean Tatars in checking sovereignising/separatist claims of the peninsular Russophone elites, but this factor proved not capable of making the centre support the former to a point of antagonising the latter (all the more so because Kyiv might take the Tatars' support for granted, as they had no realistic alternative). To finally settle the Crimean conflict by approving the autonomy's seemingly complying constitution appeared to be more important for the Ukrainian leadership than the protection of the Tatars' rights. One may assume that (some) significant OSCE states which could have influenced Kyiv's position were also eager to exclude Russia's intervention in Crimea and thus agreed to the priority of the autonomy problem over the minority problem having a less prominent (international) security dimension. In this case, however, van der Stoel did not just take an unfavourable context into account in determining realistic tasks for his intervention, but persisted in his proactive approach aimed at, in particular, changing the context. It is this persistence that resulted in the success, however moderate, of the intervention.

Apart from fund-raising efforts (which significantly contributed to solving social problems of the returnees), the High Commissioner's activity rather consistently dealt with four aspects, namely citizenship, representation, legal status of the Mejlis and rights of the Crimean Tatar language. While letters to the Ukrainian government raised all these issues, his follow-up discussions with relevant actors finally concentrated on the two former ones (which were most pressing indeed, especially in view of their intertwining, which stemmed from the relevance of the Tatars' citizenship for their ability to elect representatives). Strictly speaking, the recommendations were implemented in none of the four fields. Van der Stoel's persistent raising of the citizenship problem significantly contributed to Kyiv's increased activity in solving it, as well as in pressuring and aid from other international agencies (one of which, the UNHCR, finally became more prominent than the HCNM, as far as this problem is concerned). However, the resulting solution (regarding the returnees from Uzbekistan) did not follow a formula that the High Commissioner repeatedly suggested. His persistence in raising the representation problem was even more striking, but his recommendations were ultimately rejected. Nevertheless, his involvement in this problem was not a complete failure. First, it helped prevent the Tatars'

⁶⁴⁰ The HCNM suggested such dialogue as early as May 1994, but a year and a half was quite enough time for him to see that the authorities were not going to establish any institution for it.

⁶⁴¹ Van der Stoel argued that "dialogue itself must not become a surrogate for action, indeed empty dialogue structures can become a starting point for alienation on the part of groups that feel marginalised. Therefore, dialogue as a component of conflict prevention should have real content, and it can also function to identify problems and initiate means to solve them". Quoted in: Cohen 1999, p. 70.

escalating reaction to the refusal of the authorities to meet their demands (in particular, van der Stoel's contacts with the Mejlis after the elections of March 1998 are a good example of crisis management). Second, it contributed to awareness of, and attention to, the problem on the part of other international institutions, such as the Council of Europe, which may appear to be able to make the Ukrainian authorities finally solve the problem (however, the solution will hardly give the Tatars more than participation in a proportional election).

At the same time, the progress in both cases has to no less degree resulted from activities of the Mejlis, both in mobilising mass protests and lobbying its interests with relevant actors in Kyiv (and, less successfully, in Simferopol). Its prominent role is particularly visible in the ultimate breakthrough in the state's recognition of (a representative role of) the Mejlis itself, which took place after van der Stoel, in effect, had given up his efforts in this respect and which reflected a formula suggested by the Mejlis' leaders, rather than any of earlier proposals by the High Commissioner. And it is only due to the Mejlis' activities that eventual progress with regard to ensuring linguistic rights of the Tatars is possible. This aspect will probably be included in a law on the status of the Crimean Tatar people that the Verkhovna Rada might finally prefer to adopt. Such a law would also legally entrench the current solution (or a modified version thereof) on the role of the Mejlis, which is based, so far, on the political commitments and interests of the incumbent president, as well as provide for the body's participation in the elections. However, given the Ukrainian authorities' reluctance to set a precedent of ethnicisation of the political process and the Tatar leaders' success in obtaining influential positions through co-operation with the majority elites, which the latest peninsular elections demonstrated, it is also probable that the above problems will be solved through amending the autonomy's constitution. Such amendments, while removing obvious violations of political and cultural rights of the returnees, would at the same time mark an end to the Mejlis' attempts to ensure privileges based on their status as the indigenous people.

Given much less intensive involvement of the HCNM in the problem of the Russians' linguistic rights, a basis for generalisation is the weakest here. Nevertheless, it is perhaps legitimate to assess his first intervention in 1994 as rather ineffective. Although justified as an attempt at conflict prevention at the earliest possible stage, it failed to make an emphasis on a principal underlying problem (which was correctly identified in van der Stoel's letter) beneath the tensions in the East and South, namely the regional elites' claims for more powers. While suggesting that the OSCE experts study possible ways to address this underlying problem (which seems to have been done with regard to Crimea only), the High Commissioner was quick to propose an amendment to the minority legislation which not only infringed on an important element of Kyiv's nation-building strategy, but also envisaged its preventive concession to the Russophones (as well as to the elites of the respective regions). Therefore, the Ukrainian government clearly rejected the proposed amendment and later took measures to address the main reason of the tensions. These measures made the regional elites much less inclined to instigate the mass discontent with perceived Ukrainianisation. Together with some corrections of ideological and administrative practices, this significantly reduced the conflict potential, thus urging the HCNM to step out.⁶⁴² His second intervention six years later was caused by the Russian government's attempt to reactivate the potential for conflict and use it as a means of pressure on Kyiv. While adequate in preventing both Moscow's use of the High Commissioner for that purpose and its more active and destabilising involvement in the short run, van der Stoel's final recommendations failed to suggest measures which would remove tensions over the language problem and exclude such an involvement in the future. This shortcoming was, in effect, pre-determined by the lack of institutionalised dialogue between the authorities and the two main ethnic/linguistic groups and of democratic mechanisms in Ukrainian society in general. True, the fact that there is no single authoritative organisation of the Russian minority (such as the Kurultai/Mejlis for the Crimean Tatars) has impeded the establishment of dialogue structures to which it could have been a party. But the HCNM's failure to contribute to such establishing makes probable both further administrative abuse of the Russophones' rights (in particular, in education) and Moscow's repeating attempts to intervene as a legitimate advocate of their rights, the two things his involvement was meant to exclude.

⁶⁴² One may also assume that he was discouraged to further deal with the problem by consulting representatives of influential member states.

While it is hardly possible (or, indeed, necessary) to compare effectiveness of the High Commissioner's dealing with three prominent minority-related conflicts in Ukraine, it is in order to draw some conclusions on that dealing. First, one may argue that his involvement was mostly adequate (at least in the Crimean and Crimean Tatar conflicts) to its political context, and an incomplete success was caused primarily by unfavourable conditions. Second, given those conditions, he preferred mediation to proactive intervention and was only persistent in the latter where he believed violation of human rights was taking place, as in the case of the Crimean Tatars. (This persistence was often qualified by other actors as a bias.) Third, he was more successful in identifying short-term compromises between the parties, than in promoting institutionalised dialogue which would enable long-term settlement of the conflicts dealt with.

5.3 Consequences for Security and Democracy

It is natural to conclude an analysis of the HCNM involvement in Ukraine with evaluating its overall consequences for promoting security in its above-discussed broad meaning, that is, both in the short-term sense of de-escalation and stabilisation and the long-term sense of building institutional foundations for the stability. With regard to security in the sense of de-escalation, a balance of the involvement can be defined as positive, in view of not only an ultimate result (maintenance of peace and reduction of conflict potentials), but also of the High Commissioner's identifiable contribution to that result. To summarise the discussion in the previous section, in the conflict between Kyiv and Simferopol he played a prominent role in preventing its further escalation at two critical points. In the Crimean Tatar one, his efforts appeared to be of considerable importance for solving the social problems of the returnees, hence diminishing the danger of economically motivated mass protests, as well as for preventing the Mejlis from resorting to violent means of asserting political rights of the Tatars. As for the conflict over the linguistic rights of the Russians, van der Stoep's final intervention therein helped prevent escalation of Moscow's pressure on Kyiv, which might have provoked an inter-state confrontation.

Consequences for democracy and human rights do not look that attractive. The HCNM's failure to help find a compromise solution of the problem of the Russian and Ukrainian languages by promoting dialogue between the government and representatives of the respective groups made it easier for the authorities to prefer political and administrative expedience to ensuring linguistic human rights. The compromise between the central and autonomy's authorities was reached at the cost of the Crimean Tatars, whose political and cultural rights continue to be neglected (although, as argued above, the High Commissioner facilitated future ensuring of those rights by helping increase the world's awareness of the problem). Furthermore, this compromise did not guarantee the autonomy's rights that would be free from the centre's infringement. While van der Stoep's activity has generally been in line with the (short-term) security-oriented mandate of the HCNM, the Ukrainian case thus indicates that more effective mechanisms of compensating this one-sided orientation by other OSCE bodies should be thought of.

This compensation seems all the more necessary because the gradual diffusion of Ukraine's pressing security problems during Kuchma's presidency was not accompanied by the overcoming of underlying institutional deficits, and political stabilisation was used by the executive for consolidation of a non-democratic regime. Its overtly authoritarian mutation, which has been increasingly manifesting itself during the last years, not only challenges the fundamental values of the OSCE, but also poses a danger of internal destabilisation in Ukraine and, given Russia's striving to use it for strengthening its hegemonic position in the post-Soviet space, of breaking the post-Cold War geopolitical balance in the OSCE area. These gloomy prospects, which looked dangerously probable during the last months of van der Stoep's stay in office, call for re-evaluation of the Western policy during the last decade with regard to Ukraine in general and its minority-related conflict prevention dimension in particular. Keeping in mind that too strong pressure on the part of the West can lead to Kyiv's self-isolation and/or further compliance with Moscow, it should be asked if the OSCE and other institutions, as well as influential Western states, could have done, and can do, more to combat the authoritarian tendencies in Ukrainian politics and promote the country's evolution to an institutionalised democracy. Needless

to say, such a challenging conclusion also suggests that further empirical and theoretical analyses of the problems dealt with in this study are necessary.

List of References

Interviews:

- Yurii Bilukha*, Deputy Head of the State Committee on the Matters of Nationalities and Migration of Ukraine, 20 October 1999, Kyiv, conducted by Klemens Büscher and the author.
- Serhii Brytchenko*, Deputy Head of the Citizenship Department of the Administration of the President of Ukraine, 18 October 1999, Kyiv, conducted by Klemens Büscher and the author; 19 January 2001, Kyiv, conducted by the author.
- Lilia Budzhurova*, former member of the Mejlis of the Crimean Tatar People, 22 October 1999, Simferopol, conducted by Klemens Büscher.
- Refat Chubarov*, Deputy Head of the Mejlis of the Crimean Tatar People, 16 September 1999, Kyiv, conducted by the author.
- Oleh (Oleg) Gabrielian*, former Deputy Head of the Republican Committee on the Matters of Nationalities, Deported Citizens and Migration of the ARC, 21 October 1999, Simferopol, conducted by Klemens Büscher.
- Serhii (Sergei) Kiashko*, member of the Committee on the Matters of Human Rights, National Minorities and Inter-Nationality Relations of the Verkhovna Rada of Ukraine, and Viktor Yakovlev, deputy head of the committee's secretariat, 20 October 1999, Kyiv, conducted by Klemens Büscher and the author.
- Viktor Kryzhanivsky*, Deputy Head of the European integration department of the Ministry for Foreign Affairs of Ukraine, 31 August 1999, Kyiv, conducted by the author.
- Charles T. Magee*, Head of the OSCE Mission to Ukraine in 1998-1999, 2 November 1999, Kyiv, conducted by the author.
- Taras Marusyk*, Head of the sector for monitoring of language and nationalities policies at the Cabinet of Ministers of Ukraine, 14 February, 5 March 2001, Kyiv, conducted by the author.
- Oleksandr Oliinykov (Aleksandr Oleinikov)*, Deputy Head of the Rus' Association of the Russian Culture, 24 September 1999, Kyiv, conducted by the author.
- Mykola Shul'ha (Nikolai Shul'ga)*, Minister on the Matters of Nationalities and Migration in 1994-1995, 22 September 1999 and 19 January 2001, Kyiv, conducted by the author.
- Volodymyr Stretovych*, former Head of the Committee on Legal Policy and Judicial Reform of the Verkhovna Rada of Ukraine, 20 October 1999, Kyiv, conducted by Klemens Büscher and the author.
- Vadim Temnikov*, Councillor of the Embassy of the Russian Federation in Ukraine, 19 October 1999, Kyiv, conducted by Klemens Büscher and the author.
- Volodymyr Troshchynskiy*, Deputy Head of the State Committee on the Matters of Nationalities and Migration of Ukraine, 4 December 1999, Kyiv, conducted by the author.
- Serhii (Sergei) Tsekov*, former Head of the Supreme Soviet of Crimea, 22 October 1999, Simferopol, conducted by Klemens Büscher.
- Valentyna (Valentina) Yermolova*, Head of the Rus' Association of the Russian Culture, 12 October 1999, Kyiv, conducted by the author.

Primary sources:

- Andrushchak, Hryhorii et al. (Eds.)* 1998, *Politychni partii Ukrainy*, Kyiv.
- Bilukha, Yurii et al. (Eds.)* 1999, *Deportovani kryms'ki tatar, bolhary, virmeny, hreky, nimtsi. Zbirnyk dokumentiv (1941-1998)*, Kyiv.
- Bishkeks'ka uhoda krain - uchasnyts' SND z problem vidnovlennia prav deportovanykh osib, natsional'nykh menshyn i narodiv* [signed on 9 October 1992], in: Bilukha et al. (Ed.) 1999, pp. 103-106.
- Bloed, Arie (Ed.)* 1997, *The Conference on Security and Co-operation in Europe. Basic Documents, 1993-1995*, The Hague.
- Constitution of Ukraine*, adopted on 28 June 1996, <http://www.rada.kiev.ua/const/conengl.htm>. For the original text, see: <http://www.rada.kiev.ua/konst/CONST1.HTM>.
- Declaration of National Sovereignty of the Crimean Tatar People*, 28 June 1991, in: Allworth (Ed.) 1998, pp. 352-354.
- Decree of President of Ukraine on Some Issues Relating to Relations between the Central Executive Bodies and those of the Autonomous Republic of the Crimea*, 31 March 1995: UCIPR 1996, pp. 134-135.
- Decree of Verkhovna Rada of Ukraine "On the Procedures of Implementing the Law of Ukraine 'On the Autonomous Republic of the Crimea'"*, 17 March 1995, in: UCIPR 1996, p. 127.
- Deklaratsiia prav natsional'nostei Ukrainy*, adopted on 1 November 1991, in: Kresina/Panibud'laska 1997, pp. 607-608.

- Dohovir mizh Ukrainoiu ta Respublikoiu Uzbekystan* pro druzhbu i podal'she pohlyblennia vsebichnoho spivrobitnytstva, signed on 19 February 1998, in: *Domovlenist'* 1999, pp. 25-32.
- Doklad Mustafy Dzhemileva*, predsedatelia Medzhliisa krymskotatarskogo naroda (Krym, Ukraina) na 42-m Kongresse natsional'nostei Federal'nogo soiuza evropeiskikh natsional'nykh men'shynstv (...) (7-11 maia 1997 g.), in: *Golos Kryma*, 30 May 1997, p. 5.
- Dokumenty Kurultaia krymskotatarskogo naroda*, priniaty na ego sessiakh i konferentsiakh v 1991-1998 gg., Simferopol 1999.
- Domovlenist' mizh Ukrainoiu ta Respublikoiu Uzbekystan* shchodo spivrobitnytstva u vyrishenni pytan' hromadianstva deportovanykh osib ta ikhnikh nashchadkiv. Zbirka dokumentiv, Kyiv 1999.
- Doruchennia [Prezydenta Ukrainy]* za rezul'tatamy narady z pytannia pro stan vykonannia zakonodavstva pro movy v Ukraini 22 lystopada 1996 r., 5 December 1996, unpublished document in author's possession.
- Edict of the President of Ukraine* On Urgent Measures to Liquidate Infringements of Law and Order in the Autonomous Republic of the Crimea, 26 June 1995, in: UCIPR 1996, pp. 161-163.
- Federal'nyi zakon* "O gosudarstvennoi politike Rossiiskoi Federatsii v otnoshenii sootchestvennikov za rubezhom", signed by the president on 24 March 1999, in: *Sobranie zakonodatel'stva Rossiiskoi Federatsii*, 22/1999, pp. 4937-4949.
- Information on implementation of the recommendations of OSCE High Commissioner on National Minorities* Mr. Max van der Stoel [appendix to the letter by Anatoly Zlanko to Max van der Stoel, 6 April 2001], <http://www.osce.org/inst/hcnm/documents/recommendations/ukraine/2001/recom-06apr01.pdf>
- Konstitutsiia Avtonomnoi Respubliki Krym* [adopted on 1 November 1995], in: *Sobranie zakonodatel'stva Respubliki Krym*, 12/1995, pp. 1665-1690.
- Konstytutsiia Avtonomnoi Respubliki Krym* [ratified on 23 December 1998], in: *Sbornik normativno-pravovykh aktov Avtonomnoi Respubliki Krym*, 12/1998, pp. 2322-2345.
- Konventsiiia pro zabezpechennia prav osib, shcho nalezat' do natsional'nykh menshyn* [signed on 21 October 1994], in: *Prava liudyny v Ukraini*, vypusk 21, Kyiv 1998, pp. 408-412.
- Kresina, I.O. /V.F. Panibud'laska (Eds.)* 1997, *Natsional'ni protsesy v Ukraini: istoriia i suchasnist'*. Dokumenty i materialy, Pt. 2, Kyiv.
- Law of the Ukrainian Soviet Socialist Republic* On Languages in the Ukrainian Soviet Socialist Republic [adopted on 28 October 1989], http://www.riga.lv/minelres/NationalLegislation/Ukraine/Ukraine_Language_English.htm.
- Law [of Ukraine]* On National Minorities, [adopted on 25 June 1992], http://www.riga.lv/minelres/NationalLegislation/Ukraine/Ukraine_Minorities_English.htm.
- Law on the ARC* 1995: Law of Ukraine on the Autonomous Republic of the Crimea, adopted on 17 March 1995, in: UCIPR 1996, pp. 122-127.
- Law on the demarcation* 1992: Law of Ukraine "On the demarcation of plenary powers between the organs of state power of Ukraine and the Republic of Crimea" [adopted on 30 June 1992], excerpts, in: *Bloed* 1997, pp. 796-799.
- Letter by Max van der Stoel*, the CSCE High Commissioner on National Minorities to His Excellency Mr Anatoly Zlenko, Minister for Foreign Affairs, 15 May 1994, in: *Bloed* (Ed.) 1997, pp. 785-787.
- Letter by Max van der Stoel* to His Excellency Mr Hennady Udovenko, Minister for Foreign Affairs of Ukraine, 15 May 1995, in: *Bloed* (Ed.) 1997, pp. 792-795.
- Letter by Max van der Stoel*, the OSCE High Commissioner on National Minorities to His Excellency Mr Hennady Udovenko, Minister for Foreign Affairs of Ukraine, 12 October 1995, in: *Bloed* (Ed.) 1997, pp. 802-805.
- Letter by Max van der Stoel*, OSCE High Commissioner on National Minorities, to His Excellency Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, 19 March 1996: <http://www.osce.org/inst/hcnm/recomm/ukraine/1996/35hc76.htm>.
- Letter by Max van der Stoel*, OSCE High Commissioner on National Minorities, to His Excellency Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, 5 April 1996: <http://www.osce.org/inst/hcnm/recomm/ukraine/1996/35hc76.htm>.
- Letter by Max van der Stoel*, OSCE High Commissioner on National Minorities, to His Excellency Mr. Hennady Udovenko, Minister for Foreign Affairs of Ukraine, 14 February 1997: <http://www.osce.org/inst/hcnm/recomm/ukraine/1997/44hc47.htm>
- Letter by Max van der Stoel*, OSCE High Commissioner on National Minorities, to H. E. Mr. Anatoly M. Zlenko, Minister for Foreign Affairs, Ukraine, 12 January 2001: <http://www.osce.org/inst/hcnm/documents/recommendations/ukraine/2001/recom-06apr01.pdf>
- Letter by H. Udovenko*, Minister of [sic] Foreign Affairs of Ukraine, to His Excellency Mister Max van der Stoel, High Commissioner of the OSCE on National Minorities, 30 June 1995, in: *Bloed* (Ed.) 1997, pp. 800-801.
- Letter by H. Udovenko* to His Excellency Mr. Max van der Stoel, OSCE High Commissioner for [sic] National Minorities, [14 November 1995], in: *Bloed* (Ed.) 1997, pp. 806-807.

Letter by Hennadiy Udovenko to His Excellency Mr. Max van der Stoep, OSCE High Commissioner on National Minorities, [1996]: <http://www.osce.org/inst/hcnm/recomm/ukraine/1996/35hc76.htm>.

Letter by Hennadiy Udovenko to H. E. Max van der Stoep, OSCE High Commissioner of [sic] National Minorities, 25 March 1997: <http://www.osce.org/inst/hcnm/recomm/ukraine/1997/44hc47.htm>.

Letter by A.M. Zlenko, Minister for Foreign Affairs, to Mr. Max van der Stoep, the CSCE High Commissioner on National Minorities, 7 June 1994, in: *Bloed* (Ed.) 1997, pp. 788-791.

Letter by Anatoly Zlenko to His Excellency Mr. Max van der Stoep, OSCE High Commissioner on National Minorities, 6 April 2001, <http://www.osce.org/inst/hcnm/documents/recommendations/ukraine/2001/recom-06apr01.pdf>

Nota MID RF, 28 January 2000, in: *Rossiisko-Ukrainskii Biulleten'*, No. 5, February 2000, p. 85.

[Nota MID Uzbekistana], 4 August 1998, in: *Domovlenist'* 1999, pp. 176-178.

[Nota MZS Ukrainy], 17 August 1998, in: *Domovlenist'* 1999, pp. 179-181.

Obrashchenie fraktsii RPK 1996: Obrashchenie deputatskoi fraktsii "Respublikanskaia partiia Kryma" i deputatskoi gruppy "Respublika" k deputatam Verkhovnogo Soveta Kryma, in: *Krymskie izvestiia*, 24 July 1996, p. 2.

Obrashchenie krymskotatarskogo naroda "O bespravnom polozhenii krymskotatarskogo naroda i ignoririvannii ego zakonnykh interesov", in: *Golos Kryma*, 17 January 1997, p. 1.

Obrashchenie Medzhliisa krymskotatarskogo naroda k ukrainskoi demokratii, 27 February 1998, in: *Golos Kryma*, 6 March 1998, p. 1.

Obrashchenie Medzhliisa krymskotatarskogo naroda, 26 July 1998, in: *Golos Kryma*, 7 August 1998, p. 1.

Obrashchenie pervoi sessii III Kurultaia krymskotatarskogo naroda "K Verkhovnomu Sovetu Ukrainy v sviazi s priniatiem novoi ukrainskoi Konstitutsii", 29 June 1996(a), in: *Dokumenty Kurultaia 1999*, pp. 76-78.

Obrashchenie pervoi sessii III Kurultaia krymskotatarskogo naroda k Organizatsii Ob'iedinennykh Natsii, Organizatsii po Bezopasnosti i Sotrudnichestvu v Evrope, Sovetu Evropy, Evropeiskoi Komissii, mezhdunarodnym gumanitarnym i pravozashchitnym organizatsiiam, 29 June 1996(b), in: *Dokumenty Kurultaia 1999*, pp. 78-80.

Otchetnyi doklad predsedatelia Medzhliisa Mustafy Dzhemileva na ocherednoi (vtoroi) sessii III-go Kurultaia krymskotatarskogo naroda, in: *Golos Kryma*, 8 October 1999, p. 4.

PACE recommendation: Recommendation 1455 (2000). Repatriation and Integration of the Tatars of Crimea, 5 April 2000, <http://stars.coe.fr/ta/ta00/erec1455.htm>.

Parallel Report Prepared by the Foundation for Research and Support of the Indigenous Peoples of Crimea About the situation in Crimea (Ukraine) Undertaken in accordance with the article 25th of the Framework Convention for the Protection of National Minorities of Council of Europe, [1999], http://www.riga.lv/minelres/reports/ukraine/Parallel_Report.htm.

Parliament's resolution on enactment of the law of Ukraine "On Canceling the Constitution and Certain Laws of the Crimea", 17 March 1995, in: *UCIPR 1996*, p. 113.

Polozhennia pro Respublikans'ku komisiuu u spravakh deportovanykh narodiv Krymu [annex to the Cabinet of Minister's resolution of 24 March 1992], in: Bilukha et al. (Ed.) 1999, pp. 97-99.

[Postanova Kabinetu Ministriv Ukrainy] "Pro zakhody, pov'iazani z povernenniam kryms'kykh tatar do Kryms'koi ARSR" (...), 28 January 1992, in: Bilukha et al. (Eds.) 1999, pp. 85-88.

[Postanova Kabinetu Ministriv Ukrainy] "Pro zakhody dlia rozv'iazannia polityko-pravovykh, sotsial'no-ekonomichnykh ta etnichnykh problem v Avtonomnii Respublitsi Krym" (...), 11 August 1995, in: Bilukha et al. (Eds.) 1999, pp. 127-138.

Postanova Kabinetu Ministriv Ukrainy "Pro zatverdzhennia Kompleksnykh zakhodiv shchodo vsebichnoho rozvytku i funktsionuvannia ukrains'koi movy", 8 September 1997, in: *Verkhovna Rada web site*, www.rada.kiev.ua.

Postanova Kabinetu Ministriv Ukrainy "Pro vnesennia zmin i dopovnen' do Postanovy Kabinetu Ministriv Ukrainy vid 8 veresnia 1997 r. N 998", 21 June 2000, in: *Verkhovna Rada web site*, www.rada.kiev.ua.

Postanova Medzhliisu kryms'kotatarskoho narodu "Pro perebih roboty z otrymannia kryms'kymy tataramy hromadianstva Ukrainy", 23 January 1999, in: *Kryms'kotatarske pytannia*, 2/1999, pp. 3-4.

Postanova Verkhovnoi Rady Ukrainy "Pro status avtonomhoi Respubliky Krym vidpovidno do diiuchoi Konstytutsii ta zakonodavstva Ukrainy", 24 February 1994, in: *VVRU*, 22/1994, pp. 642-643.

Postanova Verkhovnoi Rady Ukrainy "Pro polityko-pravovu sytuatsiiu v Avtonomnii Respublitsi Krym", 22 September 1994, in: *VVRU*, 40/1994, pp. 1173-1174.

Postanova Verkhovnoi Rady Ukrainy "Pro vykonannia postanovy Verkhovnoi Rady Ukrainy "Pro polityko-pravovu sytuatsiiu v Avtonomnii Respublitsi Krym", 17 November 1994, in: *VVRU*, 47/1994, pp. 1248-1253.

Postanova Verkhovnoi Rady Ukrainy "Pro poriadok vvedennia v diiu Zakonu Ukrainy "Pro Konstytutsiiu Avtonomnoi Respubliky Krym", 4 April 1996, in: *Holos Ukrainy*, 14 May 1996, p. 2.

Postanova Verkhovnoi Rady Ukrainy "Pro rozhljad Konstytutsii Avtonomnoi Respubliky Krym", 10 December 1997, in: *Verkhovna Rada web site*, <http://www.rada.kiev.ua>.

- Postanova Verkhovnoi Rady Ukrainy "Pro rekomendatsii parlaments'kykh slukhan' "Problemy zakonodavchoho vreguliuвання ta realizatsii derzhavnoi polityky shchodo zabezpechennia prav kryms'kotatars'koho narodu ta natsiona'nykh menshyn, yaki buly deportovani i dobrovil'no povertaiut'sia v Ukrainu", 20 April 2000, in: Verkhovna Rada web site, <http://www.rada.kiev.ua>.*
- Postanovlenie tret'iei (vneocherednoi) sessii II Kurultaia krymskotatarskogo naroda "Ob uchastii v vyborakh Verkhovnogo Soveta Kryma", 28 November 1993(a), in: Dokumenty Kurultaia 1999, pp. 57-58.*
- Postanovlenie tret'iei (vneocherednoi) sessii II Kurultaia krymskotatarskogo naroda "Ob institute presidentstva v Krymu", 28 November 1993(b), in: Dokumenty Kurultaia 1999, pp. 59-61.*
- Postanovlenie Verkhovnogo Soveta Kryma "O postanovlenii Verkhovnogo Soveta Ukrainy "O politiko-pravovoi situatsii v Avtonomnoi Respublike Krym", 31 May 1995, in: Krymskie izvestiia, 1 June 1995, p. 1.*
- Postanovlenie Verkhovnogo Soveta Kryma "Ob Ukaze Prezidenta Ukrainy ot 19 avgusta 1995 goda N759 "Ob organakh gosudarstvennoi ispolnitel'noi vlasti Avtonomnoi Respubliki Krym", 21 September 1995, in: Krymskie izvestiia, 30 September 1995, p. 1.*
- Postanovlenie Verkhovnogo Soveta Kryma "O zakonodatel'noi initsiative Verkhovnogo Soveta Kryma po proektu Konstitutsii Ukrainy", 18 June 1996: Krymskie izvestiia, 18 June 1996, p. 1.*
- Proekt Konstytutsii Ukrainy 1996a: Konstytutsiia Ukrainy. Proekt, skhvalenyi (iz zauvazhenniamy i propozytsiiamy) Konstytutsiinoiu komisieiu Ukrainy 11 bereznia 1996 roku, in: Holos Ukrainy, 23 Mai 1996, pp. 3-8.*
- Proekt Konstytutsii Ukrainy 1996b: Konstytutsiia Ukrainy. Proekt doopratsiovanyi Tymchasovoiu spetsial'noi komisieiu, stvorenoi vidpovodno do Postanovy Verkhovnoi Rady Ukrainy vid 5 travnia 1996 roku za № 169/96 - VR, in: Holos Ukrainy, 28 Mai 1996, pp. 5-10.*
- Proekt postanovleniia Kabinetu Ministrov Ukrainy "O dopolnitel'nykh merakh po rasshyreniiu sfery funktsionirovaniia ukrainskogo yazyka kak gosudarstvennogo", [approved by the Council on Language Policy Matters under the President of Ukraine on 1 February 2000], in: Rossiisko-Ukrainskii Biulleten', No. 5, February 2000, pp. 81-84.*
- Proekt zakonu pro movy 1997: Zakon Ukrainy "Pro rozvytok i zastosuvannia mov v Ukraini" (proekt), in: Visnyk. Informatsiinyi biuletyn' Fondu spriannia menshynam ta migrantam, No. 5 (June 1997), pp. 17-22.*
- Proekt zakonu pro movy 1998: Zakon Ukrainy "Pro movy v Ukraini", a draft presented by MP Serhii (Sergei) Kiiashko on 13 November 1998, in: Shulga (Ed.) 2001, pp. 115-123.*
- Rekomendatsii 1996: Rekomendatsii kruhloho stola "Derzhavnu movu - v informatsiinyi prostir Ukrainy"(...), 22 November 1996, unpublished document in author's possession.*
- Rekomendatsii 1997: Rekomendatsii Mezhdunarodnoi nauchno-prakticheskoi konferentsii "Dialog ukrainskoi i russkoi kul'tur kak faktor mezhetnicheskogo soglasiia v obshchestve" (24-25 oktiabria 1996 goda, g. Kiev), in: Shul'ga (Ed.) 1997, pp. 226-229.*
- Resolution of Verkhovna Rada of Ukraine On Political Situation Resulting from the Decisions Taken of Verkhovna Rada of the Crimea on May 5, 1992, 13 May 1992, in: UCIPR 1996, pp. 26-27.*
- Resolution of Verkhovna Rada of Ukraine On canceling the Law of the Crimea "On Restoration of the Constitutional Fundamentals of the Crimean Statehood", [20 May 1994], in: UCIPR 1996, pp. 81-82.*
- Resolution of Verkhovna Rada of Ukraine On Fulfilment of the Resolution of Verkhovna Rada of Ukraine of 24 February 1994 (...) and the Resolution of Verkhovna Rada of Ukraine of 20 May 1994 (...), 1 June 1994, in: UCIPR 1996, pp. 92-93.*
- Rishennia Konstytutsiinoho Sudu Ukrainy u spravi za konstytutsiinymy podanniamy 51 narodnoho deputata Ukrainy pro ofitsiine tлумachennia polozhen' statii 10 Konstytutsii Ukrainy (...), 14 December 1999, in: Verkhovna Rada web site, www.rada.kiev.ua.*
- Rishennia Konstytutsiinoho Sudu Ukrainy u spravi za konstytutsiinym podanniam 54 narodnykh deputativ Ukrainy shchodo vidpovidnosti Konstytutsii Ukrainy (konstytutsiinosti) Zakonu Ukrainy "Pro ratyfikatsiiu Evropeis'koi Khartii regionalnykh mov abo mov menshyn, 1992 r." (...), 12 July 2000, in: Verkhovna Rada web site, www.rada.kiev.ua.*
- Sajewych, George / Andrew Sorokowski (Eds.) 1989, The Popular Movements of Ukraine for Restructuring - Rukh: Programme and Charter, Ellicott City.*
- Sud'by russkoiazychnogo naseleniia v stranakh SNG i Baltii [excerpts from a stenograph by a sitting of the Council on Foreign Policy of Russia, 18 April 1995], in: Mezhdunarodnaia zhizn', 6/1995, pp. 110-128.*
- The Act on Proclamation of State Independence of the Republic of Crimea, adopted on 5 May 1992, in: UCIPR 1996, p. 16-17.*
- The Law of Ukraine On Canceling the Constitution and Certain Laws of the Crimea, adopted on 17 March 1995, in: UCIPR 1996, pp. 112-113.*
- The report of Ukraine on implementation of the Framework Convention for the Protection of National Minorities (Received on 2 November 1999), <http://www.riga.lv/minelres/reports/ukraine/ukraine.htm>.*
- Treaty on Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation, done on 31 May 1997, in: Hajda (Ed.) 1998, pp. 319-329.*
- UCIPR 1996: Ukrainian Center for Independent Political Research (Ed.), The Crimea: Chronicle of Separatism (1992-1995), Kyiv.*

Ukaz Prezidenta Ukrainy "Pro Radu predstavnykiv kryms'kotatars'koho narodu", 18 May 1999, in: Kryms'kotatars'ke pyttannia, 3/1999, p. 3-4.

Ukaz Prezidenta Ukrainy "Pro polozhennia pro Radu predstavnykiv kryms'kotatars'koho narodu", 7 April 2000, in: Verkhovna Rada web site: <http://www.rada.kiev.ua>.

Ukrainian Helsinki Union Declaration of Principles, July 7 1988, in: Taras Kuzio (Ed.), *Dissent in Ukraine under Gorbachev* (A Collection of samizdat documents), London 1989, pp. 24-31.

Ukrinform 1994, Leonid Kuchma sklav prysiahu na virnist' ukrains'komu narodovi, in: *Holos Ukrainy*, 21 July, p. 2.

UNDP 1995: United Nations Crimea Integration and Development Programme (UKR/95/006/A/01/31), <http://www.undp.crimea.ua>.

Zaiavlenie deputatskoi grupy "Respublika" 1996, in: *Krymskie izvestiia*, 5 July, p. 2.

Zaiavlenie fraktsii Kurultaia krymskotatarskogo naroda v sviazi s priniatiem Konstitutsii Avtonomnoi Respubliki Krym, 1 November 1995, in: *Golos Kryma*, 11 November 1995, p. 1.

Zaiavlenie Medzhliisa krymskotatarskogo naroda, 16 February 1998, in: *Golos Kryma*, 27 February 1998, p. 5.

Zaiavlenie MID Ukrainy, 12 February 2000, in: *Rossiisko-Ukrainskii Biulleten'*, No. 5, February 2000, p. 86.

Zaiavlenie Presidiuma Medzhliisa krymskotatarskogo naroda "O predstavitel'stve Prezidenta Ukrainy v Avtonomnoi Respublike Krym", 21 February 1996, in: *Golos Kryma*, 1 March 1996, p. 1.

Zaiavlenie Presidiuma Medzhliisa krymskotatarskogo naroda, [March 1996], in: *Golos Kryma*, 29 March 1996.

Zaiavlenie Presidiuma Medzhliisa krymskotatarskogo naroda "O merakh po resheniiu neotlozhnykh problem krymskikh tatar i sniatiiu napriazhennosti", 14 June 2000, in: *Golos Kryma*, 23 June 2000, p. 1.

Zaiavlenie Prezidiuma Verkhovnoho Soveta Kryma "Prezidentu Ukrainy Kuchme L. D., (...), narodu Respubliki Krym", 7 March 1996, in: *Sobranie zakonodatel'stva Respubliki Krym*, 3/1996, pp. 248-250.

Zaiavlenie Russkoi obshchiny Kryma i deputatskoi fraktsii Verkhovnoho Soveta Kryma, 14 January 1997, unpublished document in author's possession.

Zakon ob izmeneniiakh v Konstitutsiiu ARK 1997: Normativno-pravovoi akt Verkhovnoho Soveta Avtonomnoi Respubliki Krym *Zakon Avtonomnoi Respubliki Krym "O vnesenii izmenenii i dopolnenii v Konstitutsiiu Avtonomnoi Respubliki Krym"*, adopted on 19 June 1997, in: *Sobranie zakonodatel'stva Respubliki Krym*, 6/1997, pp. 656-665.

Zakon pro hromadianstvo 1991: *Zakon Ukrainy "Pro hromadianstvo Ukrainy"*, adopted on 8 October 1991, VVRU, 50/1991, pp. 1443-1451.

Zakon pro hromadianstvo 1993: *Zakon Ukrainy "Pro vnesennia zmin i dopovnen' do Zakonu Ukrainy "Pro hromadianstvo"*, adopted on 28 January 1993, in: VVRU, 14/1993, p. 368.

Zakon pro hromadianstvo 1994: *Zakon Ukrainy "Pro vnesennia zmin i dopovnen' do Zakonu Ukrainy "Pro hromadianstvo Ukrainy"*, adopted on 14 October 1994, in: VVRU, 43/1994, p. 1199.

Zakon pro hromadianstvo 1997: *Zakon Ukrainy "Pro vnesennia zmin do Zakonu Ukrainy "Pro hromadianstvo Ukrainy"*, adopted on 16 April 1997, in: *Uriadovi kur'er*, 22 May 1997, pp. 8-9.

Zakon pro hromadianstvo 2001: *Zakon Ukrainy "Pro hromadianstvo Ukrainy"*, adopted on 18 January 2001, in: VVRU, 13/2001, pp. 266-274.

Zakon pro Konstytutsiiu ARK 1996: *Zakon Ukrainy "Pro Konstytutsiiu Avtonomnoi Respubliki Krym"*, adopted on 4 April 1996, in: *Holos Ukrainy*, 14 May 1996, p. 2.

Zakon pro kul'turu 1992: *Osnovy zakonodavstva Ukrains'koi Radians'koi Sotsialistichnoi Respubliki pro kul'turu*, adopted on 14 February 1992, in: VVRU, 21/1992, pp. 599-609.

Zakon pro osvitu 1991: *Zakon Ukrains'koi Radians'koi Sotsialistichnoi Respubliki "Pro osvitu"*, adopted on 23 May 1991, in: VVR URSR, 34/1991, pp. 943-961.

Zakon pro ratyfikatsiu 1999: *Zakon Ukrainy "Pro ratyfikatsiiu Evropeis'koi Khartii regional'nykh mov abo mov menshyn, 1992 r."*, adopted on 24 December 1999, in: *Shulga (Ed.) 2001*, pp. 188-190.

Zakon pro rozmezhuvannia 1992: *Zakon Ukrainy "Pro vnesennia zmin i dopovnen' do Zakonu Ukrainy "Pro status avtonomnoi Respubliki Krym" [the amended law hereby renamed as "Pro rozmezhuvannia povnovazhen' mizh orhanamy derzhavnoi vlady Ukrainy i Respubliki Krym"]*, adopted on 30 June 1992, in: *Holos Ukrainy*, 3 October 1992, p. 3.

Zakon pro status RK 1992: *Zakon Ukrainy "Pro status avtonomnoi Respubliki Krym"*, adopted on 29 April 1992, in: VVRU, 30/1992, pp. 1012-1014.

Zakon pro telebachennia 1993: *Zakon Ukrainy "Pro telebachennia i radiomovlennia"*, adopted on 21 December 1993, in: VVRU, 10/1994, pp. 246-262.

Zakon pro uchast' deportovanykh 1995: *Zakon Ukrainy "Pro osoblyvosti uchasti hromadian Ukrainy z chysla deportovanykh z Krymu u vyborakh deputativ mistsevykh Rad v Avtonomnii respublitsi Krym"*, adopted on 6 April 1995, in: *Holos Ukrainy*, 8 April 1995, p. 2.

Zakon pro VR ARK 1998: *Zakon Ukrainy "Pro Verkhovnu Radu Avtonomnoi Respubliki Krym"*, adopted on 10 February 1998, in: VVRU, 29/1998, pp. 546-557.

Zakon pro zminy do Konstytutsii 1994: *Zakon Ukrainy "Pro vnesennia zmin i dopovnen' do Konstytutsii (Osnovnoho Zakonu) Ukrainy"*, adopted on 21 September 1994, in: VVRU, 40/1994, p. 1167.

Secondary works:

- I s'iezd russkikh Ukrainy: otsenki i kommentarii*, in: Vestnik. Informatsionnyi biulleten' Russkogo Soveta Ukrainy i Kievskogo Russkogo Kul'turnogo Tsentra, 1999, Nos. 1-2, pp. 18-22.
- Abdureshitov, Nariman* 1996, Printsypy vosstanovleniia grazhdanstva, in: Golos Kryma, 17 May, p. 2.
- Abramson, Henry*, 1999, A Prayer for the Government: Ukrainians and Jews in Revolutionary Times, 1917-1920, Cambridge.
- Adil'oglu, E.* 1995, Moi vzgliady opredeliaiutsia temi resheniiami, kotorye my vyrabatyvaem na Medzhlise, in: Golos Kryma, 18 August, p. 2.
- Adil'oglu, E.* 1999, Mesto vstrechi - mechet', ili sderzhyt li Prezident svoe slovo, dannoe krymskim tataram, in: Golos Kryma, 20 August, p. 1.
- Adil'oglu, E.* 2000, "Tol'ko pravstvennaia vlast' pol'zuetsia uvazheniem" (Mo-tszy), in: Golos Kryma, 18 May, pp. 1, 2.
- Aksaniuk, Mykhailo*, 2000, Vid "movnoho" pytannia - do "Rus'koi" avtonomii?, in: Den', 24 June, p. 1.
- Alexandrova, Olga* 1998, Ukraine and Western Europe, in: Hajda (Ed.) 1998, pp. 145-170.
- Aliadinova, Leilia* 1996a, Mir sleduet svoim putem, in: Golos Kryma, 6 January, p. 2.
- Aliadinova, Leilia* 1996b, "Korenoi narod". Formy ego sushchestvovaniia, in: Golos Kryma, 30 August, p. 1.
- Aliadinova, Leilia* 1997, Petitsionnaia programma krymskikh tatar, in: Golos Kryma, 17 January, p. 1.
- Aliadinova, Leilia* 1998a, Missiia OBSE za tesnye kontakty na vsekhnivniakh vlasti, in: Golos Kryma, 9 January, p. 4.
- Aliadinova, Leilia* 1998b, Medzhlis prinimaet ekstrennye mery, in: Golos Kryma, 27 February, p. 1.
- Aliadinova, Leilia* 1998c, Vstan'te na nogi, chtoby ne byt' rastoptannymi, in: Golos Kryma, 13 March 1998, p. 1.
- Aliadinova, Leilia* 1998d, Bud' grazhdaninom!, in: Golos Kryma, 20 November 1998, p. 1.
- Aliadinova, Leilia* 1998e, Konstitutsiia Kryma - etnopoliticheskaiia bomba, in: Golos Kryma, 25 December, p. 1.
- Aliadinova, L. / A. Terlekchieva* 1998, Bez prava imet' prava, in: Golos Kryma, 27 March, p. 1.
- Allworth, Edward (Ed.)* 1998, The Tatars of Crimea: Return to the Homeland, 2nd Ed., Durham/London.
- Arel, Dominique* 1995a, Language Politics in Independent Ukraine: Towards One or Two State Languages?, in: Post-Soviet Affairs, Vol. 23, No. 3, pp. 597-622.
- Arel, Dominique* 1995b, Ukraine: The Temptation of the Nationalizing State, in: Vladimir Tismaneanu (Ed.), Political Culture and Civil Society in Russia and the New States of Eurasia, Armonk/London, pp. 157-188.
- Arel, Dominique / Andrew Wilson* 1994, Ukrainian Parliamentary Elections, in: RFE/RL Research Report, 1 July, pp. 6-17.
- Arel, Dominique / Valeri Khmelko* 1996, The Russian Factor and Territorial Polarization in Ukraine, in: The Hariman Review, No. 1-2, pp. 81-91.
- Aron, Leon* 1998, The Foreign Policy of Postcommunist Russia and Its Domestic Context, in: Michael Mandelbaum (Ed.), The New Russian Foreign Policy, New York, pp. 23-63.
- Bekirov* 1996: O proekte Zakona Avtonomnoi Respubliki Krym "O vosstanovlenii prav krymskotatarskogo naroda, armian, bolgar, grekov i nemtsev, deportirovannykh iz Kryma v 1941 i 1944 godakh". Vystuplenie chlena Postoiannoi komissii VS Kryma po natsional'noi poilitike i problemam deportirovannykh grazhdan N. Bekirova, in: Golos Kryma, 19 April, p. 2.
- Beletskii, Mikhail* 1993, Russkie v Ukraine, in: Ukraina segonia, No. 3-4, pp. 50-53.
- Beletskii, M.* 1994, Obzor politicheskoi situatsii: mai - avgust 1994, in: Ukraina segonia, No. 6, pp. 5-21.
- Beletskii, M.* 1996, Obzor politicheskoi situatsii: ianvar' - dekabr' 1996g., in: Ukraina segodnia, No. 12, 1996, pp. 3-37.
- Beletskii, M.* 1997a, Obzor politicheskoi situatsii: ianvar' - aprel' 1997, in: Ukraina segodnia, No. 13, pp. 3-24.
- Beletskii, M.* 1997b, Obzor politicheskoi situatsii: mai - avgust 1997, in: Ukraina segodnia, No. 14, pp. 3-26.
- Beletskii, M.* 1998, Obzor politicheskoi situatsii: sentiabr' 1997 - mart 1998 gg., in: Ukraina segodnia, No. 15, pp. 3-31.
- Beletskii, M. et al.* 1995a, Obzor politicheskoi situatsii: sentiabr' - dekabr' 1994 g., in: Ukraina segodnia, No. 7, pp. 5-24.
- Beletskii, M. et al.* 1995b, Obzor politicheskoi situatsii: ianvar' - mai 1995 g., in: Ukraina segodnia, No. 8, pp. 5-23.
- Beletskii, M. / V. Zaitsev* 1996, Obzor politicheskoi situatsii: iun' - dekabr' 1995g., in: Ukraina segodnia, No. 9-10, 1996, pp. 5-30.
- Biletskyi, M.I.* 1997, Ukraina - nashchadnytsia dvokh kul'tur, in: Shul'ga (Ed.) 1997, pp. 76-78.
- Bloed, Arie (Ed.)* 1993, The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993, Dordrecht.
- Borzenko, Viktor* 1998, "Derzhavnyts'ka" konstitutsiia Kryma. Mify i realii, in: Zerkalo nedeli, 21 November, p. 4.
- Bowring, Bill* 1998, The Rights of Indigenous Peoples: International Perspectives, in: Migration Issues, No. 2, pp. 22-33.

- Brubaker, Rogers* 1994, Nationhood and the National Question in the Soviet Union and Post-Soviet Eurasia: An Institutional Account, in: *Theory and Society*, No. 1, pp. 47-78.
- Brubaker, Rogers* 1996, *Nationalism Reframed. Nationhood and the National Question in the New Europe*, Cambridge.
- Brytchenko, S.* 1999, Domovlenist' mizh Ukrainoiu ta Respublikoiu Uzbekystan pro nadannia spriannia u vyryshenni pytan' hromadianstva deportovanykh osib ta ikhnikh nashchadkiv, iaki vyiavlyly bazhannia povernutysia z Respubliky Uzbekystan v Ukrainu, in: *Domovlenist'* 1999, pp. 13-23.
- Budzhurova, Lilia* 1999, Kriticheskie dni krymskogo parlamenta, in: *Stolichnye novosti*, 21 December, p. 4.
- Bukkvoll, Tor* 1997. *Ukraine and European Security*, London.
- Bulat, R.* 2000a, V interesakh li krymskikh tatar politicheskie resheniia Kieva?, in: *Golos Kryma*, 7 April, p. 1.
- Bulat, R.* 2000b, Kommentiruiia parlamentskie slushaniia po krymskotatarskoi probleme, in: *Golos Kryma*, 28 April, p. 1.
- Büscher, Klemens* 1999, Das Ende der OSZE-Mission in der Ukraine, Aktuelle Analyse des Bundesinstituts für ostwissenschaftliche und internationale Studien, No. 30.
- Büscher, Klemens* 2000, The Missions to the Republic of Moldova and Ukraine: A Double Balance, in: *Institute for Peace Research and Security Policy at the University of Hamburg (Ed.), OSCE Yearbook 1999*, Baden-Baden 2000, pp. 195-210.
- Casanova, José* 1998, Ethno-linguistic and Religious Pluralism and Democratic Construction in Ukraine, in: Barnett R. Rubin / Jack Snyder (Eds.), *Post-Soviet Political Order: Conflict and State Building*, London and New York, pp. 81-103.
- Cemiloglu, Mustafa* 1995, A History of the Crimean Tatar National Liberation Movement: A Sociopolitical Perspective, in: *Drohobycky (Ed.) 1995a*, pp. 87-105.
- Červonnaja, Svetlana* 1999, Die Bürgerrechtsbewegung der Krimtataren in den neunziger Jahren, in: *Osteuropa*, No. 2, pp. 175-186.
- Chalyi* 1997: Pravo na hromadianstvo [interview with Petro Chalyi, head of the citizenship department of the Administration of the President of Ukraine], in: *Uriadovi kur'ier*, 10 June 1997, p. 8.
- Chalyi, P.* 1999, Peredmov, in: *Domovlenist'* 1999, pp. 6-8.
- Chernaia, Ol'ga* 1996a, Sergei Golovaty: Na territorial'nuu avtonomiu Kryma nikto ne dumaet posiat', in: *Kievskie vedomosti*, 15 March, p. 4.
- Chernaia, Ol'ga* 1996b, Krym opiat' stal iablokom razdora. Na etot raz mezhdru Karmazynym i Stretovichem, *Kievskie vedomosti*, 22 March, p. 4.
- Chervonnaia, S.M.* 1997, Krymskotatarskoie natsional'noie dvizhenie (1994-1996), Moscow.
- Chevel'cha, Liudmila* 1996, Vladimir Klychnikov: "My s Ukrainoi prytiraemsia drug k drugu", in: *Krymskie izvestiia*, 28 November, p. 2.
- Chilingirova, Gul'nara* 1999, Ty stal grazhdaninom?, in: *Golos Kryma*, 3 September, p. 1.
- Chronology* 1995: Chronology of Events in Crimea, in: *Drohobycky (Ed.) 1995a*, pp. xxv-lvi.
- Chubarov, R.* 1995, Kak obustroit' Krym, in: *Krymskie izvestiia*, 31 August, p. 2.
- Cohen, Jonathan* 1999, *Conflict Prevention Instruments in the Organisation for Security and Co-operation in Europe: An Assessment of Capacities*, The Hague.
- Danelian* 1995: V novoi redaktsii. Iz vystupleniia predsedatelia Konsitutsionnoi komissii zamestitelia predsedatelia VS Kryma A.S. Daneliana, in: *Krymskie izvestiia*, 23 September 1995, p. 1.
- Danilov, V.* 1995, Krymu nuzhna konstitutsiia, in: *Krymskaia pravda*, 20 December 1995, p. 1.
- Dorogan', Aleksina* 1996, Vasilii Kiselev: "Politicheskie voprosy - vtorichny", in: *Krymskie izvestiia*, 1 November, p. 1.
- Dzhemileva, Lilia* 1998a, V. Kiselev vykhodit s predlozheniem, in: *Golos Kryma*, 13 February 1998, p. 1.
- Dzhemileva, Lilia* 1998b, Tak i ne dozhdavshys' dobroli voli..., in: *Golos Kryma*, 20 February, p. 1.
- Dzhemileva, Lilia* 1998c, Problema grazhdanstva dlia krymskikh tatar. Chto zagoniaet ee reshenie v tupik?, in: *Golos Kryma*, 27 February, p. 5.
- Drohobycky, Maria (Ed.)* 1995a, *Crimea - Dynamics, Challenges, and Prospects*, Lanham/London.
- Drohobycky, Maria* 1995b, Ukraine and Its Ethnic Minorities: An Overview, in: *Maria Drohobycky (Ed.), Managing Ethnic Tension in the Post-Soviet Space. The Examples of Kazakhstan and Ukraine*, Washington, pp. 15-27.
- Dvornovnist'* 1997: Yaka dvornovnist' nas chekae, in: *Den'*, 9 September, p. 4.
- Feoktistov, B.* 1996, "Polozhili glaz" na krymskuiu sobstvennost', in: *Krymskaia pravda*, 29 February, p. 1.
- Furtado, Charles F., Jr.* 1994, Nationalism and Foreign Policy in Ukraine, in: *Political Science Quarterly*, Vol. 109, No. 1, pp. 81-104.
- Goble, Paul* 1999, OSCE: Analysis From Washington: Countries Supervised and Not, in: *RFE/RL*, 20 July.
- Golovakha, Evgenii et al.* 1994, Russians in Ukraine, in: Vladimir Shlapentokh et al. (Eds.), *The New Russian Diaspora: Russian Minorities in the Former Soviet Republics*, Armonk/London, pp. 59-71.
- Golubenko, Vitalii* 1995, O. Adamanov: "Glavnoe stremlenie krymskikh tatar - obustroit'sia na rodine", in: *Golos Kryma*, 4 August, p. 2.

- Grach, Leonid 1999, Avtonomnaia Respublika Krym v politicheskoi sisteme sovremennoi Ukrainy, in: Viche, No. 4, pp. 3-21.
- Hajda, Lubomyr A. (Ed.) 1998, Ukraine in the World. Studies in the International Relations and Security Structure of a Newly Independent State, Cambridge, Mass.
- Havryliova, Nataliia 1998, Nepryiniattia kryms'koi konstytutsii zahostriue politychni protyrichchia na pivostrovi, <http://www.day.kiev.ua/cjr.text/1998/1217/u2.htm>
- Hopmann, P. Terrence 2000, The OSCE Role in Conflict Prevention before and after Violent Conflict: The Cases of Ukraine and Moldova, in: Erich Reiter und Ernest König (Ed.), Studien und Berichte zur Sicherheitspolitik, Band 1, Schriftenreihe der Landesverteidigungsakademie Wien und des Militärwissenschaftlichen Büros des Bundesministeriums für Landesverteidigung, <http://www.bmlv.gv.at/wissen-forschung/mwb/Studien-Sicherheitspolitik-1.html>.
- Jackson, Louise, 1998, Identity, Language, and Transformation in Eastern Ukraine: A Case Study of Zaporizhzhia, in: Kuzio (Ed.) 1998, pp. 99-113.
- Jamestown Monitor 2000a: Who's Afraid of the Ukrainian Language, in: Jamestown Monitor, 11 February (reproduced in the UKL mailing list, # 73 compiled by Dominique Arel).
- Jamestown Monitor 2000b: "Language war" Heats Up in Ukraine, in: Jamestown Monitor, 23 February (reproduced in the UKL mailing list, # 75 compiled by Dominique Arel).
- Janmaat, Jan Germen 2000, Nation-Building in Post-Soviet Ukraine: Educational Policy and the Response of the Russian-Speaking Population, Amsterdam.
- Johansen, Lars Jannick 1999, Difficulties for Preventive Diplomacy and the OSCE High Commissioner on National Minorities. Construction and Application of a Theoretical Framework, unpublished MA thesis, Institute of Political Science, University of Copenhagen.
- Juska, Arunas 1999, Ethnopolitical Transformation in the States of the Former USSR, in: Ethnic and Racial Studies, No. 3, pp. 524-553.
- Kas'ianenko, Mykyta 2000a, Mustafa Dzhemilev: "Stabil'nist" - ne vypravadnannia dyskryminatsii kryms'kotatars'koho narodu", in: Den', 15 March.
- Kas'ianenko, Mykyta 2000b, Krym na Kyïv podav u sud. Konstytutsiinyi..., in: Den', 17 March, pp. 1, 2.
- Kas'ianenko, Mykyta 2000c, Kryms'kyi parlament hnet'sia, ale ne zdaet'sia?, in: Den', 2 June, p. 5.
- Kas'ianenko, Mykyta 2000d, Krym zнову pishov osoblyvym shliakhom, in: Den', 30 June, p. 6.
- Katsman, Vladimir 1997, Povliiaet li na priniatie ukrainskogo grazhdanstva proiznesenie tret'ei bukvy v slove "kolbasa", in: Kievskie vedomosti, 5 March, p. 2.
- Kemalova, L. 1998a, Rabochaia gruppa pri Prezidente Ukrainy nachala svoiu rabotu, in: Golos Kryma, 24 April, p. 1.
- Kemalova, L. 1998b, Vasilii Kiselev i Maks van der Stul snova obsuzhdaiut problemy deportirovannykh, in: Golos Kryma, 22 May, p. 1.
- Kemp, Walter A. (Ed.) 2001, Quiet Diplomacy in Action: The OSCE High Commissioner on National Minorities, The Hague et al.
- Khalilova, Lentara 2000, Prem'er-ministr ob itogakh poezdki v Uzbekistan, in: Golos Kryma, 20 October, p. 1.
- Khomenko, Viktor / Svitlana Pysarenko 1997, Anatolii Hrytsenko: "Prezydents'kyi zakonoproekt ne vytrymue krytyky", in: Holos Ukrainy, 20 November, p. 3.
- Khronika 1993: Khronika sobytii: aprel' - sentiabr' 1993, in: Ukraina segonia, Nos. 3-4, pp. 99-121.
- Khronika 1994a: Khronika sobytii: 1 oktiabria 1993 g. - 29 apreliia 1994 g., in: Ukraina segodnia, No. 5, pp. 95-127.
- Khronika 1994b: Khronika sobytii: 5 maia - 31 avgusta 1994 g., in: Ukraina segodnia, No. 6, pp. 66-101.
- Khronika 1995a: Khronika sobytii: 1 sentiabria - 31 dekabria 1994 g., in: Ukraina segodnia, No. 7, pp. 90-161.
- Khronika 1995b: Khronika sobytii: ianvar' - mai 1995 g., in: Ukraina segodnia, No. 8, pp. 130-157.
- Khronika 1996a: Khronika sotsial'no-politicheskoi zhizni: iun' - dekabr' 1995g., in: Ukraina segodnia, No. 9-10, pp. 109-133.
- Khronika 1996b: Khronika krymskogo konstitutsionnogo processa, in: Ukraina segodnia, No. 12, December 1996, pp. 173-178.
- Khronika 1997a: Khronika krymskoi politiki, in: Ukraina segodnia, No. 13, May 1997, pp. 164-170.
- Kirillov, O. 1995, Chto v realiiakh?, in: Krymskie izvestiia, 5 October, pp. 1, 2.
- Kiselev 1998: Voprosy grazhdanstva po-prezhnemu aktual'ny, in: Golos Kryma, 27 February 1998, p. 5.
- Kohlschütter, Andreas 1996, Möglichkeiten und Grenzen der Präventivdiplomatie. Das Beispiel der OSZE-Mission in der Ukraine, in: Theorie und Praxis ziviler Konfliktbearbeitung. Friedensbericht 1996 (Beiträge zur Friedensforschung, vol. 30, Nos. 1-2), Chur/Zürich, pp. 125-148.
- Komitet zakhystu ukrains'koi knyhy 2000, Natsional'na knyha: nynishnii stan, yoho prychyny, naslidky i perspektyvy, in: Literaturna Ukraina, 16 March, pp. 2, 7.
- Kornilov, Dmitrii 2000a, Khartiïu yazykov "zakavychili" v MIDe, in: Donetskii kriazh, 18 May 2000, p. 1.
- Kornilov, Dmitrii 2000b, Komissara zainteresovali russkie, in: Donetskii kriazh, 29 June, pp. 1, 2.
- Kornilov, Dmitrii 2000c, Sekretnaia perepiska, ili van der Stul o Donbasse, in: Donetskii kriazh, 13 July, p. 2.

- Korobova, Tatiana 1996, Kurultai podtverdil svoi tseli i izmenil metody ikh dostizheniia, in: Kievskie vedomosti, 9 July, p. 3.
- Korobova, Tetiana 1998a, Pas'ians kryms'kykh vyboriv ne na koryst' tatar, in: Den', 13 February, p. 2.
- Korobova, Tetiana 1998b, Kryms'kym tataram vidmovleno u pravi holosuvaty, in: Den', 25 March, p. 2.
- Koroliuk, Volodymyr 1996, Notatky z pres-konferentsii, in: Holos Ukrainy, 17 January, pp. 1, 2.
- Kosiv, Mykhailo 1994, Bez movy nemaie narodu. Bez narodu nemaie derzhavy, in: Holos Ukrainy, 16 September 1994, pp. 4-5.
- Kotenev, V. 1996, Vstrecha s Verkhovnym komissarom OBSE, in: Krymskie izvestiia, 20 December, p. 1.
- Krymskii krisis 1994: Krymskii krisis: mai - sentiabr' 1994 g., in: Ukraina segodnia, no. 6, pp. 123-148.
- Kulyk, Volodymyr 1996, The Search for Post-Soviet Identities in Ukraine and Russia and Its Impact on Relations between the Two States, in: Harriman Review, No. 1-2, pp. 16-27.
- Kulyk, Volodymyr 1998, Pysmennyts'ke vidrozhennia: ukrains'ka derzhavna ideia v dyskursi 'opozytzii vsередyni rezhymu' pershykh rokiv perebudovy, in: Suchasnist, No.1, pp. 54-79.
- Kulyk, Volodymyr 1999, Ukrains'kyi natsionalizm u nezalezhnii Ukraini, Kyiv.
- Kulyk, Volodymyr 2001, Evropeis'ka khartiia ta ukrains'kyi vybir, in: Dzerkalo tyzhnia, 14 July, p. 17.
- Kurshutova, Sevil' 1995a, Sozdana partiia reshitelnykh deistvii, in: Golos Kryma, 25 August, p. 1.
- Kurshutova, Sevil' 1995b, Konstitutsiia kak "test na demokratichnost", in: Golos Kryma, 3 November 1995, p. 1.
- Kurshutova, Sevil' 1995c, Golodovka deputatov VS Kryma ot fraktsii Kurultaia prodolzhaetsia. Kkronika razvitiia sobytii, in: Golos Kryma, 11 November 1995, p. 1.
- Kurshutova, Sevil' 1996, Grazhdanstvo, kotoroe zhdut krymskie tatory, in: Golos Kryma, 20 December, p. 1.
- Kurshutova, Sevil' et al. 1996, 18 maia - den' natsionalnogo traury, in: Golos Kryma, 24 May 1996, p. 1.
- Kurtiev, E. 1995, Gosudarstvennost' Kryma: kakoi ei byt', in: Krymskie izvestiia, 1 November 1995, p. 2.
- Kuzio, Taras 2000, Language and Nationalism in the Post-Soviet Space, in: RFE/RL Newsline, Vol. 4, No. 148, Part II, 3 August.
- Kuzio, Taras (Ed.) 1998, Contemporary Ukraine: Dynamics of Post-Soviet Transformation, Armonk/London.
- Kuzio, Taras / Andrew Wilson 1994, Ukraine: Perestroika to Independence, Edmonton/Toronto.
- Larrabee, F. Stephen 1998, Ukraine's Place in European and Regional Security, in: Hajda (Ed.) 1998, pp. 249-270.
- Li, Anita 2000, Pochemu "Nashe radio" stalo chuzhym, in: Zerkalo nedeli, 17 June, p. 16.
- Lihachova, Natalia / Anatolii Lemysh 2000, Ivan Drach: "Izvestiia v Ukraine"? Khai vykhodiat' ukrains'koii movoiu!", in: Den', 10 March, p. 9.
- Lund, Michael S. 1996, Preventing Violent Conflicts. A Strategy for Preventive Diplomacy, Washington.
- Malinkovich, V. D. 1997, Perspektivy razvitiia russkoi kul'tury v Ukraine v zavisimosti ot napravlenosti politicheskikh protsessov, in: Shul'ga (Ed.) 1997, pp. 32-37.
- Melvin, Neil 1995, Russians Beyond Russia: The Politics of National Identity, London.
- Mirzalieva, A. 1995, Mitingi protesta v Simferopole, in: Golos Kryma, 17 November, p. 1.
- Mishkina, N. 1995, Prava, ravnye dlia vsekh?, in: Krymskie izvestiia, 5 October, p. 2.
- Mitchell, Christopher 1995, The Right Moment: Notes on Four Models of "Ripeness", in: The Kent Journal of International Relations, No. 2, pp. 35-52.
- Mizhnatsional'ni vidnosyny: stan i perspektyvy rozvytku, in: Informatsiinyi biuletyn' (Ministerstvo Ukrainy u spravakh natsional'nostei, migratsii ta kul'tiv), 1/1995, pp. 13-40.
- Molchanov, Mikhail A. 1996, Borders of Identity: Ukraine's Political and Cultural Significance for Russia, in: Canadian Slavonic Papers, nos. 1-2, pp. 177-193.
- Moshes, Arkadii 1995, Rossiisko-ukrainskie otnosheniia v period do 2000-go goda, in: Rossiia i ee sosedii, Moskovskii tsentr Karnegi, Moscow, pp. 26-53.
- Motyl, Alexander J. 1993, Dilemmas of Independence: Ukraine After Totalitarianism, New York.
- Motyl, Alexander J. 1998, State, Nation, and Elites in Independent Ukraine, in: Kuzio (Ed.) 1998, pp. 3-16.
- Müller, Derek 1999, Die Integration der Krimtataren in der Ukraine. Politische, ideologische und psychologische Aspekte, in: Osteuropa, 7/1999, pp. 692-700.
- Mychajlyszyn, Natalie 1998, The OSCE in Crimea, in: Helsinki Monitor, No. 4, pp. 30-43.
- Nahaylo, Bohdan 1999, The Ukrainian Resurgence, Toronto/Buffalo.
- Nivat, Anne 1996, No More Russian Television in Ukraine, in: Transition, vol. 2, no. 24, 29 November, p. 62.
- Obzor 1993a: Obzor politicheskoi situatsii: ianvar' - mart 1993 g., in: Ukraina segodnia, No. 2, April 1993, pp. 5-14.
- Obzor 1993b: Obzor politicheskoi situatsii: aprel' - sentiabr' 1993, in: Ukraina segodnia, No. 3-4, pp. 5-18.
- Oltarzhivs'ka, Liudmyla 2000, Nu shcho, zdavalosia b, stattia? - fantom, yakshcho vona konstytutsiina, in: Ukraina moloda, 29 January, p. 7.
- Orlov, V. 1996a, Pod prismotrom "gosudareva oka" (...), in: Krymskaia pravda, 6 February, p. 1.
- Orlov, V. 1996b, Taiut, kak ochertaniia skazochnykh korablei (...), in: Krymskaia pravda, 9 February, p. 1.
- Orlov, V. 1996c, "Gosudarevo oko" ne dremlit. (...), in: Krymskaia pravda, 20 February 1996, p. 1.
- Ott, Alexander 1999, Die Ukraine vor und nach den Parlamentswahlen 1998, Berichte des Bundesinstituts für ostwissenschaftliche und internationale Studien, No. 2.

- Ott, Alexander 2000, Die Ukraine auf dem Weg zu einer autoritären Präsidialherrschaft, Berichte des Bundesinstituts für ostwissenschaftliche und internationale Studien, No. 17.
- Ozhiganov, Edward 1997, The Crimean Republic: Rivalries for Control, in: Alexei Arbatov et al. (Eds.), Managing Conflicts in the Former Soviet Union: Russian and American Perspectives, Cambridge/London, pp. 83-135.
- Packer, John 1998, Autonomy Within the OSCE: The Case of Crimea, in: Markku Suksi (Ed.), Autonomy: Applications and Implications, The Hague, pp. 295-316.
- Pilat, Oleksandr 1996, U Krymu zнову spekotno, in: Holos Ukrainy, 12 March, p. 2.
- Podkopaev 1996: Ot organa predstavitel'nogo - k organu zakonodatel'nomu. Iz doklada zamestitelia predsedatelia Verkhovnogo Soveta Kryma Yu. Podkopaeva (...), in: Krymskie izvestiia, 30 October, p. 2.
- Pogrebinskii, M. 1996, Kak prinimali ukrainskuiu Konstitutsiiu, in: Ukraina segodnia, No. 12, pp. 38-47.
- Pozdniakova, Elena 1996, Korennye narody i natsional'nye men'shynstva, in: Golos Kryma, 6 November, p. 1.
- Prizel, Ilya 1997, Ukraine between Proto-democracy and "Soft" Authoritarianism, in: Karen Dawisha/ Bruce Parrott (Eds.), Democratic Changes and Authoritarian Reactions in Russia, Ukraine, Belarus and Moldova, Cambridge, pp.330-369.
- Pritula, Vladimir 1996, Refat Chubarov: "Krymskie tatarsy nadeiutsia na ponimanie svoei zhestkoi positsii", in: Golos Kryma, 9 August, pp. 1, 5.
- Prytula, Volodymyr 2000, Kryms'ka konstytutsiia yak pryvid zaspivaty himn avtonomii, in: Dzerkalo tyzhnia, 21 October, p. 4.
- Prybytkova, Iryna 1998, Movu nam dano dlia toho shchob..., in: Sotsiolohiia: teoriia, metody, marketyng, No. 1-2, pp. 230-241.
- Pysarenko, Svitlana 1996, Hovoryty, shcho peredanyi do Verkhovnoi Rady proekt Konstytutsii uzgodzheno, peredchasno. Poperedu bahato roboty, in: Holos Ukrainy, 13 March, pp. 1, 2.
- Redaktsionnaia stat'ia, in: Vestnik. Informatsionnyi biulleten' Russkogo Soveta Ukrainy i Kievskogo Russkogo Kul'turnogo Tsentra, 1999, Nos. 1-2, pp. 3-4.
- RFE/RL 2000a: Foreign Ministry Repeats Concerns about Russian Language Use in Ukraine, in: RFE/RL, 10 February 2000 (reproduced in the UKL mailing list, # 73 compiled by Dominique Arel).
- RFE/RL 2000b: More Russian Officials Criticize Ukraine's Language Policy, in: RFE/RL, 11 February 2000 (reproduced in the UKL mailing list, # 73 compiled by Dominique Arel).
- Rossiiskaia obshchina schitaet deistviia predstavitelia prezidenta Ukrainy v Krymu proizvolom, in: Krymskaia pravda, 27 February 1996, p. 1.
- Rumer, Eugene B. 1994, Eurasia Letter: Will Ukraine Return to Russia?, in: Foreign Policy, no. 96, pp. 129-144.
- Riabchikova, T. 1995a, Krym vnov' s Konstitutsiei, in: Krymskaia pravda, 3 November, p. 1.
- Riabchikova, T. 1995b, Obratnyi effekt, in: Krymskaia pravda, 17 November, p. 1.
- Riabchikova, T. 1995c, Bud'te liubezny, bud'te zheleznyi!, in: Krymskaia pravda, 4 November, p. 1.
- Riabchikova, T. 1995d, Pustoi zvon iz Kieva, in: Krymskaia pravda, 21 December 1995, p. 1.
- Riabchikova, T. 1996a, Eshche ne vse poteriano, in: Krymskaia pravda, 12 March 1996, p. 1.
- Riabchikova, T. 1996b, Ni sala, ni Konstitutsii, in: Krymskaia pravda, 22 June 1996, p. 1.
- Riabchikova, T. 1996c, Na pravovom pole razmerom v kopeiku, in: Krymskaia pravda, 6 December 1996, p. 1.
- Riabchikova, T. 1997, Prozasedavshiesia, in: Krymskaia pravda, 18 January, p. 1.
- Sasse, Gwendolyn 1998, Die Krim - regionale Autonomy in der Ukraine, Berichte des Bundesinstituts für ostwissenschaftliche und internationale Studien, No. 31.
- Savchenko, Viacheslav 1994, Kryms'ki tatarsy: khodinnia u vladu, in: UNIAN-Polityka, No. 49, pp. 12-14.
- Scheu, Harald Christian 1997, Die Rechte der russischen Minderheit in der Ukraine, Vienna.
- Semena, Nikolai 1998a, Krymskaia konstitutsiia: bunt "vcherashnikh", in: Zerkalo nedeli, 17 October, pp. 1, 2.
- Semena, Nikolai 1998b, Konstitutsiia pobedivshogo realisma, in: Zerkalo nedeli, 24 October, p. 2.
- Semena, Nikolai 1999, Krymskii biudzhiet: kak postupit', esli vse varianty sviazany s narusheniem zakonov, in: Zerkalo nedeli, 23 October, p. 4.
- Semena, Mykola 2000, Problemu hromadianstva deportovanykh vyrisheno na 86,2 vidsotka, in: Den', 26 January 2000, p. 4.
- Sereda, Hryhorii 2000, Deportovanykh - sotsial'nyi zakhyst, in: Uriadovi kur'ier, 7 December, p. 3.
- Shakhniuk, O. 1995a, "Perekommutatsiia" krymskikh zdravnyt na kievskii kanal?, in: Krymskaia pravda, 7 October, p. 1.
- Shakhniuk, O. 1995b, Govorim - respublika, podrazumevaem - oblast', in: Krymskaia pravda, 21 October, pp. 1, 2.
- Shakhniuk, O. 1996, Yevgenii Supruniuk: "Prishlos' vyskazat' vse, chto na dushe nakipelo", in: Krymskaia pravda, 6 April, pp. 1, 3.
- Shamil', Leilia 1995, Prichiny konflikta budut vyiasniat'sia, in: Golos Kryma, 7 July, p. 2.
- Shul'ga, N.A. (Ed.) 1997, Dialog ukrainskoi i russkoi kul'tur. Materialy mezhdunarodnoi nauchno-prakticheskoi konferentsii (24-25 oktiabria 1996g.), Kyiv.

- Shul'ga, N. A.* 1999, Sostoianie russkoi kul'tury v Ukraine: mify i realii, in: N.A. Shul'ga et. al., Dialog ukrainskoi i russkoi kul'tur v Ukraine. Materialy III-i mezhdunarodnoi nauchno-prakticheskoi konferentsii (12-13 noiabria 1998 goda, g. Kiev), Kyiv, pp. 7-17.
- Shul'ga, N. A. (Ed.)* 2001, Proekty zakonov o yazykakh - ekspertnyi analiz, 2nd suppl. ed., Kyiv.
- Smith, Graham / Andrew Wilson*, 1997, Rethinking Russia's Post-Soviet Diaspora: The Potential for Political Mobilisation in Eastern Ukraine and North-east Estonia, in: Europe-Asia Studies, Vol. 49, No. 5, pp. 845-864.
- Solchanyk, Roman* 1994, The Politics of State Building: Centre-Periphery Relations in Post-Soviet Ukraine, in: Europe-Asia Studies, Vol. 46, No. 1, pp. 47-68.
- Solchanyk, Roman* 1995, Crimea: Between Ukraine and Russia, in Drohobychy (Ed.) 1995a, pp. 3-13.
- Solchanyk, Roman* 1998, Ukraine, Russia, and the CIS, in: Hajda (Ed.) 1998, pp. 19-43.
- Solchanyk, Roman* 2000, Russians in Ukraine: Problems and Prospects, in: Zvi Gitelman et al. (Eds.), Cultures and Nations of Central and Eastern Europe: Essays in Honor of Roman Szporluk, Cambridge MA, pp. 539-549.
- Solchanyk, Roman* 2001, As Kiev Goes, So Goes the East, in: The Wall Street Journal Europe, 30 March.
- Spivdruzhnist'* 2000: Shchodo Zakonu Ukrainy pro ratyfikatsiiu Evropeiskoi khartii regional'nykh mov abo mov menshyn 1992 roku, in: Dodatok do Tyzhnevoho informatsiino-analitychnoho ohliadu N 6 [6-12 February 2000], BF "Spivdruzhnist'", Kyiv.
- Spivdruzhnist'* 2002a: Deiaki poperedni zauvazhennia pro pochatok vyborchoi kampanii v AR Krym, in: Tyzhnevyyi informatsiino-analitychnyi ohliad, N 1-2, 1-12 January 2002, BF "Spivdruzhnist'", Kyiv, pp. 15-17.
- Spivrruzhnist'* 2002b: Shchodo poperednikh rezul'tativ vyboriv do Verkhovnoi Rady Avtonomnoi Respubliky Krym, in: Tyzhnevyyi informatsiino-analitychnyi ohliad, N 15, 7-14 April 2002, BF "Spivdruzhnist'", Kyiv, pp. 17-19.
- Stent, Angela* 1994, Ukraine's Fate, in: World Policy Journal, No. 3, pp. 83-87.
- Stepanenko, Viktor* 2000, A State to Build, A Nation to Form: Ethno-policy in Ukraine, in: Anna-Maria Biro/Petra Kovacs (Eds.), Diversity in Action: Local Public Management of Multi-Ethnic Communities, http://lgi.osi.hu/publications/books/Diversity_in_Action/2_7.
- Stepaniuk* 1996: Iz obrashcheniia postoianogo predstavitelia prezidenta Ukrainy v Krymu D. Stepaniuka (...), in: Krymskaia pravda, 20 February 1996, p. 1.
- Strekal, Oleg* 1994, The Crimean Conflict and Its Implications for Ukraine's National Security, paper of the Stiftung Wissenschaft und Politik, SWP-IP 2864, September 1994.
- Tarnavs'ka, Maryna* 1995, Reabilitatsiia deportovanykh narodiv koshtue nedeshevo, in: Holos Ukrainy, 15 November, p. 2.
- The Economist* 1994: Ukraine: The Birth and Possible Death of a Country, in: The Economist, 7 May.
- The Forced Migration Projects of the Open Society Institute (Ed.)* 1996, Crimean Tatars: Repatriation and Conflict Prevention, New York.
- Tomenko, Mykola et al.*, Abetka ukrains'koi polityky, Kyiv 1998.
- Tuhluk, Vasyl'* 1995, Krym: zahostrennia sytuatsii - doroha v nikudy, in: Holos Ukrainy, 29 December, p. 2.
- Tuhluk, Vasyl'* 1996, Verkhovna Rada zatverdyla, in: Holos Ukrainy, 5 April.
- Tyshchenko, Yulia / Viacheslav Pikhovshek* 1999, Povernennia kryms'kykh tatar: Khronika podii, Kyiv.
- "Ukrainskii domashnii razgovor"* v Locarno, [anonymous commentary] in: Golos Kryma, 16 June 1995, p. 2.
- Usov, S. A.* 1994, K voprosu o statuse Respubliki Krym: istoriia i sovremennye problemy, in: Paul Goble/Gennadii Bordiugov (Eds.), Mezhnatsional'nye otnosheniia v Rossii i SNG, Moscow, pp. 71-87.
- Vadimov, Yulii* 1996, Eshche raz o probleme, kotoruiu ne reshit' v stenakh "krymskogo pentagona", in: Golos Kryma, 6 May, p. 2.
- Van der Stoel, Max* 1993, "Case Studies on National Minority Issues: Positive Results". Key note address to the OSCE Human Dimension Seminar, 24 May 1993, Warsaw, Poland, in: Van der Stoel 1999, pp. 45-48.
- Van der Stoel, Max* 1993b, "Human Dimension Commitments Are Matters of Legitimate Concern of All Participating States", Intervention at the CSCE Human Dimension Implementation Meeting, 28-29 September 1993, Warsaw, Poland, in: Van der Stoel 1999, pp. 49-54.
- Van der Stoel, Max* 1999, Peace and Stability through Human and Minority Rights: Speeches by the OSCE High Commissioner on National Minorities, Ed. by Wolfgang Zellner and Frank Lange, Baden-Baden.
- Volodin, O.* 1995a, Kakoi budet Konstitutsiia Kryma?, in: Krymskaia pravda, 1 November, p. 1.
- Volodin, O.* 1995b, Na puti k vzaimoponimaniui, in: Krymskaia pravda, 14 November, p. 1.
- Volodin, O.* 1996a, Segodnia parlament Kryma rassmotrit vopros ob utverzhdenii novogo prem'era, in: Krymskaia pravda, 28 February, p. 1.
- Volodin, O.* 1996b, Parlament utverdil prem'er-ministra, in: Krymskaia pravda, 29 February, p. 1.
- Volodin, O.* 1996c, O sud'be Konstitutsii Kryma teper' perezhivaiut i v Gollandii, in: Krymskaia pravda, 20 March, p. 1.
- Volodin, O.* 1996d, Na dorabotku rassmotrennoi v VS Ukrainy Konstitutsii Kryma nashemu parlamentu otveden mesiat, in: Krymskaia pravda, 26 March 1996, p. 1.

- Volodin, O.* 1996e, Podpisan Zakon o Konstitutsii Kryma, in: Krymskaia pravda, 23 May, pp. 1, 3.
- Volodin, O.* 1996f, Konstitutsiia Ukrainy priniata. Teper' ochered' za Konstitutsiei Kryma?, in: Krymskaia pravda, 2 July 1996, pp. 1, 3.
- Wilson, Andrew* 1995, Presidential and Parliamentary Elections in Ukraine: The Issue of Crimea, in: Drohobychy (Ed.) 1995a, pp. 107-131.
- Wilson, Andrew* 1997, Ukrainian Nationalism in the 1990s: A Minority Faith, Cambridge.
- Wilson, Andrew* 1998, Politics in and around Crimea: A Difficult Homecoming, in: Allworth (Ed.) 1998, pp. 281-322.
- Wittkowsky, Andreas* 1998, Fünf Jahre ohne Plan. Die Ukraine 1991-1996. Nationalstaatsbildung, Wirtschaft und Eliten, Hamburg.
- Yakovlev, Viktor* 1997, Fakty dlia rozdumiv, in: Visnyk, No. 5, pp. 6-8.
- Yelens'kyi, Viktor* 1995, Tserkva i polityka u posttotalitarnomu sotsiumi: Ukraina, in: Prava liudyny v Ukraini, No. 13, pp. 31-50.
- Yevtukh, V. B.* [1997], Etnopolityka v Ukraini: pravnychiy ta kul'turolohichnyi aspekty, [Kyiv].
- Yevtukh, Volodymyr* 1995, The Dynamics of Interethnic Relations in Crimea, in: Maria Drohobychy (Ed.), Crimea - Dynamics, Challenges, and Prospects, Lanham/London, pp. 69-85.
- Yevtukh, Volodymyr et al. (Eds.)* 1996, Etnichnyi dovidnyk. Pt. II. Etnichni menshyny Ukrainy, Kyiv.
- Yurchuk, Oleksandr* 1998, Leonid Hrach sviatkue peremohu?, <http://www.day.kiev.ua/cjr/text/1998/1224u1.htm>.
- Zaagman, Rob* 1994, The OSCE High Commissioner on National Minorities: An Analysis of the Mandate and the Institutional Context, in: Arie Bloed (Ed.), The Challenges of Change: The Helsinki Summit of the CSCE and its Aftermath, Dordrecht, pp. 113-175.
- Zaitsev, Valerii* 1994, Krymskii krisis, in: Ukraina segodnia, No. 6, pp. 160-167.
- Zam'iatin, Viktor* 2000a, Moskva protestue proty "derusyfikatsii" L'vova, in: Den', 18 July 2000, p. 1.
- Zam'iatin, Viktor* 2000b, Kyiv kazhe, shcho b'e moskovs'ku kartu, in: Den', 20 July 2000, p. 3.
- Zazuliak, Yurii* 2000, Pochemu "vashe radio" ne stalo nashym, in: Zerkalo nedeli, 15 July, p. 14.
- Zellner, Wolfgang* 1999, On the Effectiveness of the OSCE Minority Regime. Comparative Case Studies on Implementation of the Recommendations of the High Commissioner on National Minorities of the OSCE, Hamburg.
- Zevelev, Igor* 1996, Russia and the Russian Diasporas, in: Post-Soviet Affairs, No. 3, pp. 265-284.
- Zolotukhina, Inna* 1999, Komu nalezhatyme Krym, in: Den', 13 May, p. 2.
- Zoria, Vasyl'* 2000, Mykola Zhulyns'kyi: "Nastalo vremia bez fanatizma rasstavit' tochki nad 'i'", in: Zerkalo nedeli, 26 February, p. 4.