



United States Mission to the OSCE

Response to Ambassador Ertuğrul Apakan, Chief Monitor of the Special Monitoring Mission, and Ambassador Martin Sajdik, OSCE Special Representative of the Chairperson-in-Office in Ukraine

As delivered by Charge d' Affaires a.i. Kate Byrnes
to the Permanent Council, Vienna
January 28, 2016

Ambassadors Apakan and Sajdik, welcome back to the Permanent Council. We greatly appreciate your efforts on behalf of the OSCE and all of its participating States to support the full implementation of the Minsk agreements. With the deadline to implement Minsk extended through 2016, the Trilateral Contact Group and Special Monitoring Mission will both play a critical role in fulfilling the Minsk agreements and establishing a lasting peace. Each day the conflict continues means more deaths and a worsening humanitarian situation.

Ambassador Sajdik, as you highlighted in your presentation, there is no time to lose. A full ceasefire, the withdrawal of Russian forces from Ukraine, complete access for the OSCE SMM all the way to Ukraine's international border, free and fair local elections in the Donbas, and the reinstatement of Ukraine's control over its international border are all indispensable elements of Minsk implementation. Sanctions must remain in place until Russia fulfills the commitments it made when it signed the Minsk Agreements.

Likewise, local elections in certain areas of Donetsk and Luhansk under Ukrainian law and in line with OSCE standards must be monitored by the Office for Democratic Institutions and Human Rights (ODIHR), as spelled out in the Minsk Package of Measures. We look to you, Ambassador Sajdik, to support efforts to reach an agreement on election modalities in the Trilateral Contact Group and the political working group. Ukraine has engaged in these discussions constructively and in good faith, and we are still waiting for Russia and the separatists to engage similarly.

Ambassador Apakan, we recognize the indispensable role the Special Monitoring Mission has to play, and welcome your proposals to more fully equip the mission for the difficult tasks it takes on each day. Further mission growth will require effective leadership, a secure environment for monitors, and the provision of critical medical, transportation, and logistical resources. We fully support the mission's innovative use of new technical means, including short and long-range UAVS, and underscore the importance of a fully developed information management capability to effectively utilize them.

As the SMM grows, it must remain focused not only on security issues, but also on the human dimension to the conflict. In advance of elections, it will be important for us to understand the situation regarding human rights and fundamental freedoms in the special status area. Ambassador Apakan, the recent SMM report on access to justice highlighted the alarming use of arbitrary detention in separatist-controlled areas. This could have a chilling effect on free speech, especially in the context of local elections. The SMM has also reported on interference by armed separatists in politically-sensitive legal cases, which augurs poorly for the role of the courts in independently adjudicating election-related irregularities. An assessment of freedom of expression in the conflict zone would be timely and important.

Ambassador Apakan, your mission has repeatedly faced unacceptable restrictions on its movement, the vast majority of which were imposed by the separatists. As your report notes, in early January alone, combined Russian-separatist forces imposed 91 percent of those restrictions. Combined Russian-separatist forces have also increased the number of hostile acts against the SMM in a concerted effort to intimidate monitors. Since your last report to the Permanent Council, monitors have come under small arms fire twice, so-called “LPR” forces threatened SMM monitors five times, and so-called “DPR” militants forced monitors to the ground at gunpoint.

These acts were neither accidents nor unfortunate coincidences. Ambassador Apakan, your report notes that restrictions and hostilities appear to be carried out deliberately to prevent the SMM from fulfilling the very tasks it has been charged with, in particular, verifying the removal of heavy weapons and monitoring the situation near the border with Russia. The Permanent Council has heard Russia’s repeated call for the expansion of the SMM to 1,000 monitors, and 24/7 monitoring of hotspots along the line of contact. At the same time, combined Russian-separatist forces are intentionally depriving the SMM of the ability to carry out its mission. Russia’s words of support to the SMM, to the Trilateral Contact Group, and to the Minsk agreements are not enough. If Russia becomes serious about Minsk implementation, we ought to be receiving very different reports from you, Ambassadors Apakan and Sajdik, at your next visit to the Permanent Council.

In closing, let me stress that the SMM should, in keeping with its mandate, monitor and report on the entire territory of Ukraine. This requires the Mission to have unrestricted access to Crimea, which remains an integral part of Ukraine.

In this regard, it is unfortunate that the Russian Federation continues to deny that its aggression against Ukraine is in violation of its international commitments. On January 26, Foreign Minister Lavrov claimed Russia had not violated the Budapest Memorandum, because the agreement only obligates Russia not to use nuclear weapons against Ukraine. In fact, in signing the Budapest Memorandum, the Russian Federation reaffirmed its obligation to “refrain from the threat or use of force against the territorial integrity or political independence of Ukraine.” This statement is a confession of the violation. International law, as confirmed by the UN General Assembly as well as the Helsinki Final Act, obligate and commit Russia to reverse its actions in Crimea.

Thank you, Mr. Chair.