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AT THE 1277th MEETING OF THE OSCE PERMANENT COUNCIL**

30 July 2020

**On the persistent violation of the linguistic and educational rights of
national minorities and other ethnic communities in Ukraine**

Mr. Chairperson,

Eighteen months ago, during his election campaign, the current President of Ukraine, Mr. Volodymyr Zelenskyi, publicly declared that excesses in the language issue were unacceptable and that it was necessary to re-examine and rectify the discriminatory norms adopted in this area at the instigation of his predecessor, Petro Poroshenko. These promises had a considerable impact on support for Mr. Zelenskyi in the election, especially in the Russian-speaking regions of the country. The people believed him.

However, there have been no substantive changes in the situation since then. The leadership of Ukraine has continued its policy of forced Ukrainization, with the Russian language being squeezed out of all spheres of public life and attempts being made to assimilate the non-Ukrainian-speaking population.

The most difficult situation has emerged in the field of education, where discriminatory norms have been enshrined by the laws on education, on full general secondary education and on supporting the functioning of the Ukrainian language as the State language.

Starting from 1 September, State schools teaching in Russian and other languages that are not languages of the European Union or of indigenous peoples, as is the case with Belarusian, Yiddish or, say, Moldovan, will be required to switch to teaching in Ukrainian. From 2023, mother-tongue education at State schools will also not be available to a host of other national minorities (including Hungarians, Romanians and Bulgarians). I would remind you that because of a number of socio-economic factors it is State schools, and not private ones, that remain for many citizens of Ukraine the only opportunity they have in theory to receive an education.

Such experiments on the education system by the Ukrainian Government have been repeatedly criticized both by local human rights defenders and by international institutions: they have pointed out that the norms introduced are not in conformity with Ukraine's domestic and international obligations. Systematic criticism has come, for example, from the Venice Commission of the Council of Europe and the OSCE High Commissioner on National Minorities. These have emphasized, in particular, that the laws adopted do not safeguard the necessary linguistic balance. Furthermore, the Ukrainian Government was

advised to discard the differentiated, and essentially discriminatory, approach to languages that are not official languages of Member States of the European Union. This also applies to the multiple discrimination of the Russian language in education – both in relation to the Ukrainian language and the languages of the so-called indigenous peoples of Ukraine, and to the languages of the countries of the European Union. However, all these recommendations have been blatantly ignored. The law on full general secondary education that was adopted in January 2020 has not only failed to alleviate the problem but has also formalized these discriminatory approaches.

Some Ukrainian parliamentarians – both from the opposition and from among the current political forces backing the President – recently attempted to rectify this situation. A draft law amending various previously adopted regulations concerning education and citizens' linguistic rights was submitted to the Verkhovna Rada of Ukraine for consideration, with the aim of bringing these regulations into line with the country's Constitution and its international obligations. In particular, the draft law provided for the switch from teaching in Russian to teaching in Ukrainian at all educational institutions to be postponed by three years. It was also proposed that even after this transition the proportion of teaching in the State language in Russian schools should not be 80 per cent, as the law currently stipulates, but 60 per cent. In other words, the draft law actually proposed applying the same approach to the Russian language as to the languages of European Union countries. However, the Ukrainian Parliament, under pressure from politicians seething with nationalism, refused even to just consider this draft law. All this has merely confirmed the unwillingness of the current political elite in Ukraine to move beyond unbridled Russophobia. The Ukrainian Government's OSCE commitments and the country's obligations under its own Constitution have been thrown to the dogs, not to mention common sense as such.

Yes, common sense, too – specifically, with regard to the following basic practical aspect: will schools and teachers in Ukraine actually be ready to switch completely from teaching in Russian to teaching in Ukrainian as of 1 September 2020? Would that not mean that the provision of educational services by the State is being made to hinge on the language of instruction rather than on the quality of the education provided? Is the Ukrainian Government aware of the full scope of possible negative consequences that may result from such a hasty forced alignment of the education system with opportunistic political goals? We doubt it.

Nor did the Ukrainian legislators stop to think about the rights of the Russian-speaking inhabitants of the country when they adopted, in 2019, the law on supporting the functioning of the Ukrainian language as the State language. In accordance with that law, these inhabitants will soon potentially be deprived of their right to receive services, including everyday services, in any language other than Ukrainian. For example, there are plans afoot to remove the Russian language from areas such as labour relations, science, culture, television, radio broadcasting, public events and sport. And from 2022, violations of these strict language regulations will be prosecuted. This is what originally awakened the concern of a group of Verkhovna Rada deputies who, in June of last year, filed a complaint with the Constitutional Court of Ukraine, arguing that the law in question was not in conformity with the country's Constitution. They emphasized that some of its provisions do not comply with the Constitution, which guarantees the free development, use and protection of the Russian language and languages of national minorities (Article 10). Examination of the complaint began on 7 July, a year after it had been submitted.

Here, too, believing the election promises made by Ukrainian politicians has turned out to be a non-starter. The words of Mr. Fedir Venislavsky, representative of the President of Ukraine in the Constitutional Court, were indicative in that regard. He stated that there were no grounds for repealing the language law. After all, the law in question dealt exclusively with the functioning of the Ukrainian language and did not mention the legal status of the languages of national minorities and of the Russian language, which was the subject of a completely different regulation.

There is just one snag, though: the fact that there is no specialized legislation of the kind the relevant international institutions, among others, have been calling for. Linguistic discrimination and its consequences will invariably affect all aspects of life in Ukraine in the very near future, dividing society even further along linguistic lines. One thing is clear – the discriminatory practice of the Ukrainian authorities in no way contributes to the goal of creating the common area of security and co-operation that we are trying to build together here.

Once more, we call on the Ukrainian Government to put a stop to the linguistic discrimination of the Russian-speaking population and national minorities and to take a responsible approach to the honouring of its obligations, including its OSCE commitments. We hope that the participating States will secure concrete actions from the Ukrainian authorities towards remedying this reprehensible situation.

Despite the declared noble goals of the linguistic and educational reform in Ukraine, the laws on education and the State language adopted by the authorities violate a number of Ukraine's domestic and international legal obligations. We have repeatedly spoken about the violation of specific obligations, but we will evidently have to do so again.

First of all, the laws contravene the country's Constitution. Let us begin with Article 22, which states: "The content and scope of existing rights and freedoms shall not be diminished in the adoption of new laws or in the amendment of laws that are in force." This is precisely what happened when the laws on language, on education and on secondary education were adopted. Likewise, there was blatant violation of Article 10, which provides for "the free development, use and protection of Russian and other languages of national minorities". Those laws also violate Article 11, which stipulates that the State shall promote "the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine". Banning the use of languages and eliminating access to education in them are tantamount to negating these provisions.

The laws on education and the State language are also incompatible with Article 53, which states that "[c]itizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language". As has already been noted, from 2020 and 2023, respectively, neither Russian speakers nor minorities speaking the languages of European Union countries will be guaranteed access to education in their languages.

The current linguistic and education legislation contravenes Article 24 of the Constitution, which stipulates that "[c]itizens have equal constitutional rights and freedoms and are equal before the law" (among other things, in terms of linguistic equality), and also Article 1, paragraph 1, of the National Minorities Act, which prescribes that citizens shall enjoy the protection of the State on an equal basis. Preferences for particular languages negate the principle of equality. The education legislation is also at odds with Article 6 of that law, regarding the possibility to study in one's native language at State educational institutions. Incidentally, the Venice Commission of the Council of Europe makes particular mention of these national laws.

International obligations are also being trampled upon wholesale. The new laws violate Article 27 of the International Covenant on Civil and Political Rights, which has been ratified by Ukraine. This stipulates: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." And yet all the legislative acts we have cited are aimed at restricting the use by Russian speakers and national minorities of their native languages.

Council of Europe norms are likewise being flouted. Ukraine has ratified the European Charter for Regional or Minority Languages, in accordance with which the Ukrainian Government is obliged to protect and ensure the functioning of regional and minority languages in education, including secondary education (Article 8), in science, culture and politics, and in the work of the administrative authorities and courts (Articles 7 to 10). In the declaration accompanying its ratification, Ukraine explicitly stated that the Charter's provisions would apply to Russian, Belarusian, Bulgarian, Gagauz, Greek, Romanian and other languages.

We would remind you that the Venice Commission has made it clear that in Ukraine international treaties come immediately after the Constitution in terms of legal force, and that they prevail over ordinary laws. This means that the law on the State language and other legislation on the rights of minorities have to be in conformity with those international treaties.

Consequently, the measures for the protection of Russian and other regional and minority languages provided for in the European Charter should take precedence over Ukrainian laws, including the laws on the State language and both laws on education. In reality, the opposite is the case.

Ukraine is also failing to abide by its OSCE commitments. The language laws and both education laws violate the 1990 CSCE Copenhagen Document. Paragraph 34 of the Document reads: "The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue." Paragraph 35 reads: "The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities." Of course, in the current circumstances, it is quite impossible to speak of mother-tongue instruction, let alone the promotion of one's identity, being guaranteed.

The situation is also contrary to the provisions of the 1990 Charter of Paris, the 1999 Istanbul Summit Declaration, and the Hague and Lund Recommendations of the OSCE High Commissioner on National Minorities.

Several authoritative international bodies have repeatedly expressed their concern about respect for the rights of national minorities and compliance with obligations in that area. Thus, the Office of the United Nations High Commissioner for Human Rights in its report on the human rights situation in Ukraine for the period from 16 November 2019 to 15 February 2020 indicates that "the legislation provides insufficient guarantees for the protection and use of minority languages in the absence of a law on the realisation of the rights of indigenous peoples and national minorities". It further emphasizes that "although the law on secondary education guarantees [...] instruction in the language[s] of indigenous people[s] along with instruction in Ukrainian, it fails to indicate the exact proportions. This raises concerns as to the level of protection provided for indigenous peoples' linguistic rights."

The Venice Commission of the Council of Europe has also expressed concerns. On 9 December 2019, it published its opinion on the Law on Supporting the Functioning of the Ukrainian Language as the State Language, where it concluded that, in the absence of a specific law on the protection and use of minority languages, the current legal framework failed to strike a fair balance between strengthening the status of the Ukrainian language and providing sufficient guarantees of the linguistic rights of national minorities.

The OSCE High Commissioner has repeatedly pointed out, in connection with the adoption of this law, the absence of mechanisms for protecting the linguistic rights of minorities and the need to eliminate the different treatment accorded to the languages of the European Union compared with those of other countries.

As we can see, there is a hefty list of complaints against the Ukrainian Government raised by international institutions. This confirms that language and education policies in Ukraine have become tools of a policy of discrimination.

Thank you for your attention.