

**SPEECH OF DIRECTOR OF THE NON-GOVERNMENTAL
ORGANIZATION “INSTITUTE OF LEGAL POLICY AND SOCIAL
PROTECTION NAMED AFTER IRINA BEREZHNYAYA” ELENA
BEREZHNYAYA
AT THE PLENARY MEETING
OSCE Human Dimension Implementation Meeting
SEPTEMBER 24, 2019 (10 am -13 am)
(TOPIC: TOLERANCE AND NON-DISCRIMINATION)**

Dear Ambassador Lamberto Zannier!

We are appreciative and grateful for your multiple repeated visits to Ukraine, as well as for your tangible assistance in restoration of violated rights and freedoms of national minorities of Ukraine.

Our Institute monitors facts of violations and infringement of rights and freedoms in Ukraine since 2014 (in particular, incidents associated with all forms of discrimination).

The Law of Ukraine “On Education” adopted on September 5, 2017 contradicts the Convention for the Protection of National Minorities. The Convention obliges states to provide representatives of national minorities with right to study in their native languages. However, Article 7 of this Law stipulates instruction exclusively in Ukrainian language – throughout Ukraine, in all secondary schools, including private schools.

This legislative norm has stirred discontent in many countries, in particular, in the EU states. In particular, Hungarian government officially declared that Ukrainian education law violates principles of the Association Agreement between Ukraine and the EU, and protested strongly, blocking Ukraine’s integration process and rapprochement with NATO.

In November 2017, Hungarian PM Mr. Orban stated that Hungary would block all European initiatives of Ukraine until recall of the discriminatory rule against national minorities.

Romanian Ministry of Foreign Affairs also officially emphasized its indignation at the adopted law on education, and due to that reason Romanian President Klaus Iohannis canceled the prescheduled official visit to Ukraine.

Besides that, on December 8, 2017, the European Commission “For Democracy through Law” (better known as the Venice Commission) issued an expert opinion on the language provisions of Ukrainian Law “On Education”.

One of the outcomes of this conclusion states that Article 7 of the law does not ensure compliance with key principles vital for implementation of the framework law in the context of the country's international and constitutional obligations.

Venice Commission members also pointed out that the adopted law does not stipulate a solution for languages that are not official languages of the EU, in particular for Russian - as the most widely used language in Ukraine besides the state language. At the same time, Venice Commission stated: “It is difficult to justify a less favorable attitude towards these languages, and therefore it emphasize a discriminatory nature of the norm. Considering this, a correct decision would be to amend Article 7 - to replace this provision with a more balanced and explicitly formulated one. The problem of discrimination of languages of minorities whose languages are not in the list of official EU languages should also be resolved in course of such a review”.

However, to date, for almost two years state of Ukraine fails to implement any recommendations of the Venice Commission on the educational reform.

In addition, Law of Ukraine "On Ensuring of Functioning of Ukrainian as the State Language", adopted on April 25, 2019, contradicts Constitution of Ukraine, all applicable international treaties, European Charter for Regional or Minority Languages and, naturally, infringes on the rights of the multi-million Russian-speaking population, as well as ethnic Hungarians, Romanians, Gagauz and representatives of other national minorities of Ukraine.

This Law stipulates mandatory use of Ukrainian language throughout the country in government agencies and local self-governments, as well as in all public spheres of life of the society.

It should be noted, that OSCE High Commissioner for National Minorities Lamberto Zannier on July 29, 2019 officially announced that language law adopted in Ukraine says nothing about protection of national minorities’ languages. That means Ukraine must provide the law’s compliance with the best international practices. In particular, he stated: “One of current problems is associated with implementation of recommendations of the Council of Europe. For instance, this refers to distinction between languages of the EU and all other languages. Such a classification suggests application of unequal policies to different national minorities, and this means introduction of elements of discrimination. First, the law says nothing about protection of languages of national minorities. We work with Ministry of Culture [of Ukraine] on certain changes that should appear in the document to take into account the role of Russian language, in particular. Second, all questions about usage of the state language are resolved rather strictly - not via a system of incentives and rewards that we would like to see, but via punishment. Third, the law adopted without consultations with representatives of national minorities”.

Discriminatory nature of some norms of this law:

- a ban on secondary and higher education in Russian language and in languages of national minorities, forfeiture of Russian-language books, a complete ban on commercial distribution of software in Russian-language, and ban on Russian-language mass media;
- infringement on the rights of patients of medical institutions who do not speak the state language;
- Evident discrimination in the service industry, where a mandatory usage of Ukrainian language only is stipulated;
- conduction of all public events, including cultural events, exclusively in Ukrainian language.

According to the already valid law, the newly created body endowed with repressive powers - the Commissioner for Protection of the State Language – ensures observance of the above-described norms. And this happens in the country, where, according to 2018-19 opinion polls, some 65% - 77% of population use Russian language in everyday life.

In the view of the above, our Institute appeals to the ODIHR leadership to adopt a relevant Resolution on outcomes of this meeting and to support the OSCE High Commissioner for National Minorities (HCNM) Lamberto Zannier, obliging the state of Ukraine to:

All participants who wish to receive the monitoring report on violations of rights and freedoms in Ukraine and on infringement on access to justice in 2014-2019 can contact me after conclusion of the Plenary Meeting.