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**ADDITIONAL REMARKS BY MR. ALEXANDER LUKASHEVICH,
PERMANENT REPRESENTATIVE OF THE RUSSIAN FEDERATION, AT THE
1326th MEETING OF THE OSCE PERMANENT COUNCIL**

29 July 2021

**On violations by Ukraine of its international obligations in the field of human rights
and freedoms and domestic legislation**

Madam Chairperson,

The laws on education and the State language adopted by the Ukrainian authorities violate a number of Ukraine's domestic and international legal obligations.

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 incompatible with Article 53 of the Constitution, 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". Thus, from 2020, Russian speakers and, from 2023, minorities speaking European Union languages will not be guaranteed education in their languages.

The current linguistic and education legislation also 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 Ukrainian Law on National Minorities, which states 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 openly flouted. 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 or 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 ignored. 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.

The Ukrainian Government is also failing to abide by its OSCE commitments.

For example, the 2018 Milan Ministerial Council decision on the safety of journalists calls on participating States to “[b]ring their laws, policies and practices, pertaining to media freedom, fully in compliance with their international obligations and commitments and to review and, where necessary, repeal or amend them so that they do not limit the ability of journalists to perform their work independently and without undue interference”. In addition, the Ministerial Council called on participating States to “[c]ondemn publicly and unequivocally all attacks and violence against journalists such as killing, torture, enforced disappearance, arbitrary arrest, arbitrary detention and arbitrary expulsion, intimidation, harassment, and threats of all forms, such as physical, legal, political, technological or economic, used to suppress their work and/or unduly force closure of their offices, including in conflict situations”. The relevant paragraphs are clearly not being implemented.

The language laws and both education laws violate the 1990 CSCE Copenhagen Document. For example, 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 have become tools of a policy of discrimination by the Ukrainian authorities.