

The changes that change nothing. Ukraine amends the Law on National Minorities

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On 21 September the Verkhovna Rada, the parliament of Ukraine, voted to amend the Law on National Minorities (Communities). All the parliamentary groups unanimously voted in its favour (only three MPs abstained from voting, no one opposed the motion), and the document will come into force after President Volodymyr Zelensky signs it.

However, the adopted legislation does not practically address the most controversial issue regarding the principles of teaching in minority languages in secondary education which were introduced under the Law on Education of 2017. Under the amended regulation, the number of hours of education in minority languages still depends on whether the language is that of an indigenous ethnic group of Ukraine, an official EU language or a non-EU language. In the assessment of the first version of the Law published on 13 June by the Venice Commission, these provisions were deemed discriminatory, as threatening to the functioning of minority schools. In this respect, the legislators only added paragraphs obliging the state to guarantee free textbooks to students and teachers representing national minorities, which is a repetition of the provisions contained in the Law on Education.

Considering another recommendation from the Venice Commission which highlighted the need to define the term 'traditionally' in the wording used in the act "areas traditionally inhabited by persons belonging to national minorities", where bilingual nameplates can be used on buildings of local government institutions and municipal enterprises, and when publishing advertisements in the minority language alongside a Ukrainian translation, the authors of the amendments deleted this word from the regulation. The regions where representatives of national minorities constitute the largest group of inhabitants are to be indicated by the government in a separate regulation. The recommendation to define the concept of 'specialised bookstores', which are not subject to the requirement to sell at least 50% of publications in Ukrainian (introduced under the State Language Law) was taken into account in a terse and imprecise manner. No reference was made to the Venice Commission's overall criticism of this obligation.

The legislators also disregarded the recommendation to change the provision on the need to translate events organised by national minorities into Ukrainian in response to requests submitted to local authorities. The amendment only extends the deadline for sending them from 48 to 72 hours before the start of a given event. Suggestions to limit the obligation to translate such events only to those organised by local authorities or financed from public funds were ignored. The number of requests that would require the event to be translated

was not specified.

In accordance with the Venice Commission's recommendation, the conditions for limiting minority rights in situations where national security, territorial integrity and public order are at risk were specified. The amended Law also envisages more extensive use of national minority languages by emergency services for victims of domestic violence and institutions for the elderly. The suggestion to include support for languages of national minorities at risk of disappearance in a government policy was also taken into account. The principles of operation for local government bodies of national minority centres and cooperation with them were defined and clarified.

Commentary

- The amendments were made only two months after the Law on National Minorities (Communities) came into force; it was adopted in December 2022 and took legal effect in July this year six months after it was published. The legislators were obliged to adopt the amendment following the European Commission's oral assessment of the progress Ukraine had made in implementing the seven recommendations published on 22 June (see '[The glass half empty. An assessment of Ukraine and Moldova's progress in implementing EU recommendations](#)'). It said that Kyiv had made only 'some progress' in protecting national minority rights (fewer than half of the recommended actions had been completed). This opinion was based on the Venice Commission's report, which pointed out that some of the provisions of the Law were discriminatory and called for them to be changed in accordance with international legal standards. Ukraine must implement these recommendations, taking the opinion of the Venice Commission into account, in order for it to start accession negotiations with the EU, and a full report on this matter is to be presented in October.
- The adopted amendments conform to the Venice Commission's suggestions to only a limited degree. The Commission's recommendations were only taken into account with regard to the less important issues. The amendments will in fact have little impact on the nature and content of the Law and other legal acts relating to minorities (including the Law on Education of 2017, the State Language Law of 2019 and the Law on Complete General Secondary Education of 2020). As a result, regulations are still in force that envisage abolishing national minority schools and replacing them with national minority classes where full-scale education in national minority languages will only be possible at the primary education level, that is in grades I–IV (see '[Ukraine: a blow against the national minorities' school system](#)'). The provisions of the Law on Complete General Secondary Education were also maintained. According to them, EU languages can be used as languages of instruction in secondary and specialised schools (grades V–XII) for no more than 80% of the total time of all lessons. During the period of specialised education (grades X–XII), classes in Ukrainian should cover at least 60% of the total learning time. At the same time, however, in June the Ukrainian parliament again voted to postpone the date of these amendments coming into force, this time until September 2024.
- The desire to keep the above regulations in effect stems from the Ukrainian government's belief that language is an important element of national identity, and plays an important role in protecting the nation from separatist movements that pose a threat

to the stability and territorial integrity of the state (Russia used linguistic issues as a pretext for the aggression in the Donbas and the annexation of Crimea in 2014). Therefore, some opinion-forming circles in Ukraine claim that the Venice Commission's report is biased and disregards the realities of war. The arguments concerning discrimination against the Russian language met with especially strong criticism. Concerns were voiced that this part of the report could be used by the Kremlin in its information war against Kyiv. More extensive use of the Ukrainian language in public space and in education is seen in Ukraine as a form of resistance against Russian aggression and an act of deconstructing the 'Russkiy Mir'. At the same time, the Ukrainian government hopes that its partial implementation of the Venice Commission's recommendations, in the conditions of war with Russia, will not cast a negative light on the assessment of its implementation of the European Commission's recommendations.

- The adopted amendments do not even halfway meet the expectations of the countries that criticised the provisions of the Law on National Minorities (as well as previous regulations restricting the use of minority languages in education), most of all Hungary and Romania (according to the last census conducted in 2001, the number of ethnic Hungarians and Romanians in Ukraine is 156,600 and 151,000 respectively, but in reality these figures are lower). Budapest demands that the present legislation concerning these issues be repealed, which would in fact mean the reinstatement of the provisions of the Law on the Principles of State Language Policy of 2012 (see '[The Parliament of Ukraine has adopted a new language law](#)'), which the Constitutional Court of Ukraine abolished in 2018. The recent amendments will also not be accepted in Romania, due to the unclear regulations regarding education in minority languages and their use in administration and business. It should therefore be expected that minority rights will remain a contentious issue, and Hungary will continue to make its consent to Ukraine's integration with the EU and cooperation with NATO conditional on granting extensive rights to the Hungarian ethnic minority.
- The Hungarian government has not as yet taken an official stance on the amended law. So far, one of the two parties representing the Hungarian minority in Ukraine, which cooperates closely with Fidesz, has voiced an opinion. The Transcarpathian Hungarian Cultural Association (KMKSZ) issued a statement on 26 September claiming that the adopted amendment still failed to protect the national minorities' rights as guaranteed in the constitution and international documents. The objections mainly concern the terminology used in the law, as well as the discriminatory or purely declarative nature of some of the provisions. At the same time, signs of some progress in talks on this topic have been seen in recent weeks. Representatives of both countries met in Budapest on 22 September as part of the Hungarian-Ukrainian intergovernmental working group on education, and Levente Magyar, the Hungarian deputy foreign minister, expressed hope that common ground could be found.
- The Hungarian government and organisations representing Transcarpathian Hungarians had already protested against this law at its development stage. The most important objection concerned the requirement to gradually switch to teaching in the Ukrainian language (by increasing the number of lessons taught in this language). The issue of education in Transcarpathia has been the main controversy in bilateral relations since

2017; it is also the subject of Budapest's ultimatum regarding its consent to Ukraine's accession to the EU and NATO, which the Hungarian government has emphasised on many occasions, including in a parliamentary speech delivered by Prime Minister Viktor Orbán on 25 September.