

Ukraine: another amendment to the law on national minorities

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On 8 December 2023, on the bill's second reading, the Ukrainian parliament adopted amendments to the law on national minorities, education, the media, the local government, higher education sector, general secondary education and the official language (see Appendix). President Zelensky signed these documents on the same day. The amendments have been introduced to take the comments of the Venice Commission (VC) into account. These were listed in the 8 November report by the European Commission as one of the four recommendations which Ukraine is required to implement to launch its negotiations with the European Union.

Commentary

- The amendments modifying the laws which specify the rights of the national minorities to a large degree meet the VC's recommendations, and provided an important argument in favour of the formal opening of membership talks at the European Council summit on 14–15 December. The legislative amendments were the most difficult of all the seven requirements presented by the European Commission in June 2022, and have repeatedly come under criticism from Kyiv. As regards the most controversial issue, namely the rules specifying the use of minority languages as languages of instruction in secondary schools, they limit the requirement to use the state's official language as the language of instruction to subjects which are of key importance to national identity (Ukrainian language and literature, Ukrainian history and national defence). This is a major compromise on Kyiv's part, which has demonstrated great determination to implement the EC's requirements. At the same time, the amendments will hardly affect the Russian language at all. This is due to the need to defend Ukraine against pro-Russian separatist movements which pose a threat to the state's stability and integrity.
- The amendments introduced are another aspect of Ukraine's dispute, which has been ongoing for many years, with its neighbours (mainly Hungary) over the nature and scope of changes to the rights of national minorities, including in particular the limitations on using their languages as languages of instruction. These were initiated on the basis of the law on education enacted in 2017 (see '[Ukraine–Hungary: the intensifying dispute over the Hungarian minority's rights](#)'). The Law on National Minorities (Communities) passed on 13 December 2022 aggravated this dispute and came under criticism from Hungary and Romania, which accused Kyiv of limiting the rights of national minorities and jointly requested the VC to examine the new law. The VC issued two opinions (12 June and 6

October 2023) in which it emphasised the need to make the wording of some fragments more specific. On 21 September, Ukraine amended the document, although this only involved introducing minor changes (see '[The changes that change nothing. Ukraine amends the Law on National Minorities](#)'). In a report published on 8 November assessing the state of Ukraine's preparedness for EU membership, the European Commission once again highlighted the issue of the national minorities' rights and emphasised the need to amend the relevant legislation in line with the VC's recommendations. The draft amendment was announced on 22 November, and its initial version met with harsh criticism from some Ukrainian politicians and social activists. Controversy was sparked by the provision according to which the Russian-speaking population would be allowed to enjoy the same rights as other national minorities in five years following the end of martial law. As a consequence, this provision was deleted, and the amended law does not specify the period for which the Russian minority should be denied the rights which the other national minorities enjoy. However, this solution is not consistent with the VC's recommendations, which called on Kyiv to enact laws to prevent discrimination against ethnic Russians and the Russian-speaking population.

- The adoption of these amendments was among the most sensitive recommendations presented by the EC, for reasons including its consequences for Ukraine's relations with its EU neighbours (in particular Hungary). For many years, Budapest has viewed its request to grant broad rights to the Hungarian minority as a precondition of its consent to Kyiv's continued integration with the EU. However, over the last several months, it has raised the issues of Ukrainian Hungarians less frequently, and has focused on accusing the Ukrainian leadership of 'widespread and systemic corruption' and emphasising Ukraine's problems with the rule of law and democracy (see '[Orbán's blackmail: Hungary threatens to block Ukraine's integration with the EU](#)'). This narrative shift most likely results from the anticipated implementation of reforms in the sphere of the rights of national minorities, which strip the Hungarian side of the arguments it used to use in justifying its opposition to Ukraine's integration with the EU.
- Although Kyiv has met almost all of Hungary's demands, Budapest's reaction has so far been very restrained, which reinforces the impression that these issues are just a pretext for Viktor Orbán's government to block the process of Ukraine's EU accession. On the day following the adoption of the amended laws, Tamás Menczer, secretary of state at the Hungarian MFA, argued that they required closer inspection and supervision of their enforcement. At the same time, he said that these amendments were "insufficient" in the context of the full restoration of the pre-2015 legal status for the national minorities. Budapest seemed to refrain from an official assessment of the situation ahead of the European Council summit, however on 11 December foreign minister Péter Szijjártó had the opportunity to meet in Brussels with his Ukrainian counterpart Dmytro Kuleba and express that Hungary would only be satisfied with changes restoring the exact legal status from before 2015.
- The amendments have received a positive assessment from the parties representing the Hungarian national minority. The Transcarpathian Hungarian Cultural Association (KMKSz), which cooperates closely with Budapest, has expressed "moderate optimism" about the amendments which "partly restore" the legal status quo, and appreciated Kyiv's

decision (it also announced that it would communicate its final assessment once it has analysed the amendments in detail). The leaders of the Democratic Union of Hungarians in Ukraine (UDMSZ), the second biggest association of Transcarpathian Hungarians, have published a letter to the President of the European Council Charles Michel and Prime Minister Orbán requesting them to support the decision to launch accession talks with Ukraine.

- Recent days have seen Kyiv launch a diplomatic offensive targeting the Hungarian government. On 6 December Andriy Yermak, head of the Office of the President of Ukraine, had a phone conversation with Hungary's foreign minister Péter Szijjártó, and on 11 December Ukraine's foreign minister Dmytro Kuleba and deputy prime minister and minister for European and Euro-Atlantic integration Olha Stefanishyna met FM Szijjártó in person. On 10 December, during the celebration surrounding the inauguration of Javier Milei as Argentina's president, President Zelensky held a brief conversation with PM Orbán. Other important initiatives included attempts by the Ukrainian government to reach an agreement with the Hungarian organisations operating in Ukraine. During his visit to the Zakarpattia region at the beginning of August, Zelensky met representatives of the Hungarian minority, and in September Stefanishyna presented the Hungarian authorities with a so-called road map regarding the consequences of the planned amendments for ethnic Hungarians living in Ukraine. Bucharest's reaction to Ukraine amending its national minority laws was also positive: Romania's foreign minister Luminița Odobescu has referred to them as a "positive step forward" and a demonstration of Kyiv's "sound attitude" to these issues.

Appendix. Key amendments to the law on national minorities

The amendment has reduced the number of subjects which secondary schools are required to teach to representatives of national minorities who use one of the official languages of the EU, using Ukrainian as the language of instruction. At present these include Ukrainian history, literature and language, as well as defence training (in all types of schools). The previous version of the legislation required schools to ensure that at least 20% of tuition had to be delivered in the official language. This proportion increased with each grade up to 40% in the 9th grade and at least 60% in specialist schools (grades 10–12). In addition, private universities are now allowed to use the language of national minorities as the language of instruction, either alongside the official language or on its own.

The amended law also makes it possible to conduct election campaigns in minority languages (on condition that translations of the electoral materials into the official language are provided), and allows national minorities to broadcast 70% of their radio and television programmes in their language. It has also introduced provisions regarding the use of minority languages in advertising activity. Moreover, it defines certain concepts which are used in the documents such as areas 'traditionally inhabited by national minorities' and those where 'individuals belonging to national minorities (communities) account for a significant portion of the population'. As regards the former, it specifies that these are localities where the specific national minority has lived continuously for 100 years (this requirement does not apply to individuals who have been forcibly deported or have fled an armed conflict, as well as victims of genocide) and makes up at least 15% of the population. As regards the latter, these are localities where the proportion of national minorities is at

least 10%.

In these two types of localities, the amended laws now allow minority languages to be used during electoral campaigns and in the publication of electoral materials ahead of the presidential, parliamentary and local elections, on condition that translations into Ukrainian are provided. Similar regulations apply to the publication and display of advertisements in public space. According to the amended laws, the use of the Russian language has been restricted indefinitely.