

September 7, 2023

# Council of Europe's Venice Commission Publishes Opinion on Ukraine's New Law on National Minorities (Communities)

## Introduction

In December 2022, the Verkhovna Rada of Ukraine adopted the “Law on National Minorities (Communities).”

On June 12, 2023, the Venice Commission of the Council of Europe<sup>1</sup> issued an [Opinion](#) on this Law.<sup>2</sup> In addition to providing a comprehensive analysis of the Law’s compliance with existing international instruments, the Venice Commission highlights specific concerns regarding freedom of expression, discrimination against national minorities, and challenges in implementation.

The Commission also suggested amendments to ensure that minority rights are explicitly protected, and to remove or reconsider potentially discriminatory provisions.

As Ukraine moves forward in its accession to the EU, implementing the Commission's suggestions could help create an inclusive society that respects and safeguards the rights of national minorities.

**This document, prepared by the Hungarian Human Rights Foundation ([HHRF](#)), summarizes the Opinion’s findings, and provides commentary and context where applicable.**

**In this document you will find:**

[Findings of the Venice Commission](#)

[Previous Opinions and Recommendations](#)

[Consultation with Minority Representatives](#)

[Terminology and Scope of the Law on Minorities](#)

[On Rights, Freedoms, and Responsibilities](#)

[On Linguistic Rights](#)

[Education in National Minority Languages](#)

[Public Policy in the Sphere of National Minorities](#)

[International Cooperation and Foreign Relations of National Minorities](#)

[Final and Transitional Provisions](#)

[Conclusions and Recommendations of the Venice Commission](#)

[Summary and Reaction by the Hungarian Minority in Ukraine](#)

## Findings of the Venice Commission

The Venice Commission Opinion begins by highlighting Ukraine's constitutional and legislative framework for protecting the rights of national minorities. It cites several clauses of the Ukrainian Constitution that ensure the unrestricted growth, utilization, and safeguarding of languages belonging to national minority groups. The Constitution also emphasizes the advancement of ethnic, cultural, linguistic, and religious identities. According to the Constitution, the rights of indigenous peoples and national minorities are determined exclusively by Ukrainian law.

The Commission focuses on the Law's compliance with international instruments and standards, including the Framework Convention for the Protection of National Minorities (Framework Convention), the European Charter for Regional or Minority Language (the Language Charter), relevant articles of the International Covenant on Civil and Political Rights (ICCPR), and the European Convention on Human Rights (ECHR).

## Previous Opinions and Recommendations

The Venice Commission Opinion repeatedly cites previous opinions that specifically addressed two preceding Ukrainian laws relating to national minorities: the Law on Education<sup>3</sup> and the Law on Supporting the Functioning of the Ukrainian Language as the State Language.<sup>4</sup>

The Venice Commission Opinion also cites a report<sup>5</sup> by the United Nations Human Rights Monitoring Mission in Ukraine, which analyzed the bill on national minorities (communities) of Ukraine on December 14, 2022, and extensively referenced the Venice Commission's previous opinions.

**In its prior opinion (2017) on the Law on Education**, the Venice Commission provided recommendations including amending certain provisions to address potential discriminatory treatment of minority languages. The Commission recommended ensuring a sufficient level of teaching in official languages of the European Union, maintaining a sufficient proportion of education in minority languages at primary and secondary levels, improving the quality of teaching of the state language, allowing more time for gradual reform, exempting private

schools from new language requirements, and engaging in dialogue with national minority representatives.

**In its prior opinion (2019) on the State Language Law**, the Venice Commission recommended that the Language Law's provisions be postponed until the Law on Minorities was adopted. Other recommendations included revising the State Language Law to ensure compliance with international commitments, removing differential treatment between languages, reconsidering the complaint and sanctions mechanism, safeguarding the rights of linguistic minorities, and entrusting a responsible institution with monitoring the implementation of language provisions.

In the current Opinion, the Venice Commission reiterates that its previous recommendations on education and the state language remain valid, as they have not been incorporated into the 2023 Law on National Minorities:

*“The new Law on national minorities (communities) does not amend the legislation on education and the state language. The recommendations made by the Venice Commission in previous opinions in the field therefore remain valid, to the extent that they have not been adequately met in subsequent special laws.”<sup>6</sup>*

## Consultation with Minority Representatives

Regarding the question of procedure, the Commission suggests initiating consultations concerning laws that may impact national minorities, as mandated by international conventions and the recommendations of the United Nations Human Rights Council. The Ukrainian authorities claim to have engaged in broad consultations with stakeholders, including minority associations. However, the extent of consensus is difficult to evaluate, says the Commission, and is contested by the minorities themselves – for example, the Romanian minority of Ukraine.<sup>7</sup>

## Terminology and Scope of the Law on Minorities

A potential problem lies in the terminology used in the Law, namely, the inclusion of the term “communities” alongside “national minorities.” According to the Venice Commission, Ukrainian officials state that they added the term “communities” due to concerns of some who view the word “minorities” as offensive and evocative of the Soviet period. The Commission emphasizes that “minorities” is the term used in international law but acknowledges that utilizing both terms interchangeably does not contravene international standards.

The Commission praises the preamble of the Law on National Minorities for its reference to international treaties and principles regarding the rights of national minorities, and its mention of the need for proper conditions, preservation of identity, full development, diversity, intercultural dialogue, and equality regardless of ethnic origin. However, the Commission raises concern regarding the exclusion of indigenous peoples from the definition of national minorities, and they recommend clarification on how the Law on National Minorities applies to indigenous people.

Article 2(2) of the Law states that if there is an international treaty approved by the Verkhovna Rada that establishes different rules from those in the Law on National Minorities, the provisions of the international treaty take precedence. The Commission appreciates this provision and acknowledges the inclusion of state guarantees for minority rights, the prohibition of discrimination, as well as the potential for affirmative action.

However, the Law's provision on affirmative action is narrower compared to the corresponding provision in the Framework Convention for the Protection of National Minorities (Framework Convention). Therefore, the Commission suggests considering amendments to ensure that the Law fully aligns with the Framework Convention in this aspect.

## On Rights, Freedoms, and Responsibilities

Section II of the Law on National Minorities lists the rights, freedoms, and responsibilities of individuals belonging to national minorities (communities). The Commission finds this list of rights comprehensive but not exhaustive.

The list of obligations includes compliance with the constitution and laws, defense of state sovereignty, respect for the Ukrainian nation, and promoting the integration of national minorities into Ukrainian society.

The Venice Commission welcomes the concept of “integration of society” – a formulation of the Framework Convention. It means that diversity and respect for differences should be recognized and encouraged through mutual accommodation and engagement. However, the Venice Commission notes that while the Law’s clause on the limitation of fundamental rights aligns with international conventions on human rights, it fails to specify the legitimate aims required for any restriction.

Article 5(7) focuses on the “propaganda of the aggressor state”<sup>8</sup> in the context of the Russian aggression against Ukraine. The Venice Commission recommends relocating this provision to criminal legislation or specific legislation related to the emergency situation.

Regarding the right to self-identification, Article 6, limits this right to citizens of Ukraine, which is contrary to the Framework Convention. However, the Law ensures that nobody can be forced to declare their affiliation to a national minority, and the exercise of national minority rights is also not tied to conditions. Article 6(3) concerning names, surnames, and patronyms aligns with the Framework Convention, but the Venice Commission notes that “official recognition” of names in minority languages should be made more explicit.

Articles 7 and 8 protect freedom of public associations, peaceful assembly, expression, religion, and thought, in line with the Framework Convention and the European Convention on Human Rights (ECHR).

Article 9 aims to implement Article 15 of the Framework Convention, which addresses participation in political, economic, and social life. However, the Law falls short of the

Framework Convention by not explicitly stating how conditions for effective participation can be created. The Venice Commission recommends further development in the Law to address this aspect.

## On Linguistic Rights

Article 10(1) of the Law recognizes the right of individuals belonging to national minorities to freely use their language without hindrance or discrimination. Nevertheless, the Commission notes that this recognition is limited, because the rights are conditioned upon compatibility with existing legislation – they are recognized only “to the extent not contradicting the law”.<sup>9</sup>

The Venice Commission acknowledges that it could not review all restrictions on the use of minority languages covered by this condition.<sup>10</sup> Nonetheless, the Commission, in its earlier opinions evaluated specific limitations of the Ukrainian State Language Law, which has been in effect since July 16, 2019. The new Law on National Minorities has not changed these limitations, and, in Article 10(1), appears to implicitly confirm them:

***“Therefore, the Venice Commission finds it appropriate to repeat the criticism on these provisions it expressed in its Opinion on the Law on the Ukrainian Language as the State Language [...]”***<sup>11</sup>

These criticisms, not addressed by the new Law, are found primarily in the areas of (1) violations of freedom of expression, (2) discrimination against national minorities, and (3) challenges in implementing the provisions.

The following are the specific key issues and recommendations by the Venice Commission in the area of linguistic rights:

### Freedom of Expression and Academic Freedoms (Art. 22(2))

The Venice Commission considers the provision requiring scientific publications to be made public in the State language, English, and/or other official languages of the European Union as a violation of freedom of expression and academic freedoms. They view the differential treatment between languages as unjustified.

### Language of Domestic Film Distribution and Screening (Art. 23(6))

The Venice Commission criticizes the requirement for Ukrainian language in domestic film distribution and screening, with exceptions for the Crimean Tatar language and other indigenous languages, for imposing additional costs and work. They believe that the lack of adequate funding could potentially disrupt cultural events in minority languages, and they consider it a violation of the principle of non-discrimination.

### Language of Tourist and Sightseeing Services (Art. 23(8))

The provision declaring the State language as the language for tourist and sightseeing services, with other languages allowed for foreigners or stateless individuals, violates freedom of expression. The legitimacy of this provision is questionable, and its implementation presents

serious challenges, especially in situations involving mixed populations of citizens and non-citizens. In such situations, service providers face difficulties in determining language use when both local citizens and international tourists or stateless individuals are present, making it challenging for them to comply with the provision.

#### [Language Requirements in Advertising \(Art. 32\(1\)\)](#)

The Venice Commission criticizes the requirement to use Ukrainian language in advertising, with exceptions for EU official languages. The Commission argues for the protection of the freedom of advertisers to choose the language of their advertisements, including minority languages, and advocates for equal guarantees for non-official EU languages to be provided by the Law on Minorities.

#### [Language Requirements for Sporting Events \(Art. 34\)](#)

The Venice Commission considers the complete disallowance of languages other than Ukrainian in national or local sporting events as a violation of the right to freedom of expression. Furthermore, the absence of an exception for minority languages contradicts Ukraine's obligations under international frameworks such as the Framework Convention and the Language Charter.

#### [Language Requirements for Political Parties and Entities \(Art. 37\)](#)

While acknowledging the legitimate aim of maintaining public order, the Venice Commission emphasizes the need for clarity regarding which documents and decisions are necessary to exercise legitimate public functions.<sup>12</sup>

#### [Organization of Public Events and Interpretation Services \(Art. 10\(2-3\)\)](#)

The Venice Commission raises concerns about provisions related to organizing public events and providing interpretation services. It criticizes the restrictions on the freedom of association and the burden placed on organizers to provide interpretation services for cultural/artistic or entertainment events as disproportionate and against the principles of language protection. The Venice Commission recommends amending the Law and allowing organizers of private events to freely decide the language without imposing mandatory translation/ interpretation.

#### [Implementation and Vagueness](#)

The Venice Commission questions the Ukrainian authorities' argument of proportionate application and prevention of abuses through secondary legislation<sup>13</sup>. It emphasizes that legislation should not be applied in force, and secondary legislation cannot suppress rights provided in primary legislation. The vagueness of certain provisions is highlighted as potentially hindering freedom of speech.

#### [Financial Support and Distribution of Books](#)

Article 10(5) of the Law on National Minorities confirms that publications in the languages of national minorities funded by the state and/or local budgets are exempt from the requirement in Article 26(1) to publish at least 50% of all book titles in the State language. Specialized

bookstores established for the rights of national minorities are also exempt from the requirement in Article 26(2) to have no less than 50% of books in Ukrainian, according to Article 10(5). However, the Commission raises concerns that this provision may potentially discourage and restrict the distribution of books in regional or minority languages and recommends that the term “specialized bookstores” be clarified.

#### [Expansion of Language Use in Emergency Situations \(Art. 10\(6\)\)](#)

The Venice Commission recommends expanding this provision to include institutions for the elderly and emergency services for victims of domestic violence. The Commission recommends that certain words in the provision need to be removed to ensure an unconditional right to emergency assistance in the language of the minority.

#### [Duplication of Official Names and General Information \(Art. 10\(7\) and 10\(8\)\)](#)

The Law provides that the inscriptions of official names on the signs of local self-government bodies and municipal enterprises in the state language may be duplicated in the languages of national minorities. The Venice Commission welcomes this provision but recommends that terms such as “traditionally inhabited” and “significant part of the population” should be clarified for legal certainty. Additionally, the legislation should establish clear criteria for local authorities to make decisions on inscriptions in minority languages. The Commission also recommends explicitly allowing the use of minority languages in place names and other topographical indications<sup>14</sup> in areas where these languages are traditionally spoken.

#### [Language Requirements in Predominantly Minority-Populated Areas \(Art. 10\(8\)\)](#)

The Commission raises concerns about the potential burdens on communication and freedom of expression due to conflicting requirements. Article 10(8) of the Law on National Minorities mandates the duplication of general information in the language of national minorities in relevant settlements, but the State Language Law requires such information to be available in Ukrainian even in settlements with an almost exclusively minority population.

In its earlier opinion on the Law of the State Language, the Venice Commission urged authorities to reconsider this requirement in light of the principle of proportionality, as it could place a heavy burden on those wishing to communicate with the public and potentially hinder the freedom of expression. In that opinion, the Commission “invited the authorities to re-examine the provision in the light of the principle of proportionality. This invitation still applies.”<sup>15</sup>

#### [Use of Minority Languages in Election Campaigns \(Art. 10\(9\)\)](#)

The requirement for election campaign materials in municipalities with minority populations to be available in Ukrainian appears as a disproportionate restriction on freedom of expression. The Venice Commission recommends revising this provision and proposes that if authorities desire materials in Ukrainian, the state should offer financial support for translation, dubbing, or subtitling.

### Use of Minority Languages in Communication with Authorities (Art. 10(10))

The provision stipulating the use of minority languages in communication with authorities lacks precise rules. The Venice Commission recommends revising Article 10(10) to define the essential elements of the right to use minority languages and incorporate relevant commitments under the European Charter for Regional or Minority Languages.

Previous legislation lacked rules regarding the use of minority languages in interactions with administrative authorities, which was criticized by the Venice Commission. The new Law now includes provisions for the use of minority languages in communication with authorities, based on relevant international conventions. However, the Law does not provide specific rules<sup>16</sup> for using minority languages in contact with the administration; instead, it delegates the development of a “methodology” to the Cabinet of Ministers [10 (10)]. This methodology is expected to determine the specifics of language use in areas where national minorities reside and where they constitute a significant part of the population. It may also address the translation requirements for cultural events organized by public associations of national minorities.

The Venice Commission suggests that essential criteria for language use should be defined within the Law itself and should incorporate the commitments made under international conventions.

The Law on National Minorities states that the right to use minority languages applies in areas traditionally inhabited by national minorities or where they constitute a significant part of the population, based on the request of individuals and meeting real needs. The Venice Commission recommends providing a clear and concrete definition of “real needs” to avoid unjustifiable limitations on the provision's effect.

*“Finally, the Venice Commission reiterates the recommendation made in its Opinion on the Law on State Language of 2019, that the Law should grant the possibility for civil servants, in responding to private individuals who address public authorities, to answer also in minority languages, if they can do so (paras 59-61).”<sup>17</sup>*

### Education in National Minority Languages

Article 11(1) of the Law on National Minorities addresses the reform of the Ukrainian education system and refers to the existing Law on Education.

Regarding this Law on Education, in 2017, the Venice Commission issued an opinion expressing its concerns and recommendations for the protection of minority languages in education in Ukraine.

In its current Opinion, the Venice Commission again refers to these concerns, including:

- The lack of qualified teachers and suitable resources for teaching the Ukrainian language,



- a considerable reduction in teaching in minority languages, which puts minority schools and linguistic identity at risk,
- and the unequal treatment of different minority languages, which is considered discrimination without proper justification.

**“These concerns and recommendations remain valid to the extent they were not adequately met in the subsequent special laws.”<sup>18</sup>**

In its current Opinion, the Commission recommends that Article 11(1) of the Law on Minorities guarantees the right of national minorities to be educated in their language when reasonably required, particularly in areas where minorities traditionally or substantially reside.

In Point 62, the Venice Commission acknowledges that it has not fully assessed the current situation or examined the Law on Comprehensive Secondary Education adopted in March 2020, which includes education models for national minorities. The Commission also acknowledges a constitutional court judgment from October 2019, stating that the Law on Education created conditions for the realization of rights for national minorities and indigenous peoples to study their mother tongue and receive education in the state language, regardless of their origin.

#### Implementation of Planned Education Reform

The implementation of the education system reform, involving the transformation of the secondary minority language school system into a state-language school system, has been postponed until September 1, 2023<sup>19</sup>. The Commission explicitly recommends further postponing the implementation of the education law and reconsidering its provisions in light of the Commission’s earlier recommendations from 2017.

Article 11(2) of the Law highlights the promotion of training and qualification improvement for pedagogical and academic workers in minority languages. The Venice Commission acknowledges the efforts made by Ukrainian authorities to provide adequate textbooks and support for teaching the Ukrainian language. However, it suggests adding an obligation for the state to provide textbooks and educational materials in the minority language to ensure compliance with international standards.

Article 11(3) pertains to the language of education in private education institutions providing full, general secondary education in Ukraine. The key points are as follows:

**The Right to Choose Language:** According to Article 11(3), private education institutions offering full general secondary education have the right to select the language in which they conduct education.

**Exception for Institutions Receiving Public Funds:** However, there is an exception to this entitlement. Educational institutions that receive public (government) funds are not allowed to freely choose the language of instruction.

**Language Obligations for Publicly Funded Institutions:** Publicly funded educational institutions are obliged to ensure that students are proficient in the state language (in this case, Ukrainian) as per state standards. This means that the language used for instruction must be the state language, and students are required to attain a certain level of proficiency in it.

**Limitation on Public Funding:** To clarify further, any private education institution that uses a language of the minorities for instruction cannot receive public funding. In other words, if a private school chooses to conduct classes in a language other than the state language (Ukrainian), it will not be eligible for financial support from the government.

**Compliance with the Commission's Recommendations:** The provision in Article 11(3) is said to partly comply with one of the recommendations made by the Commission in its 2017 Opinion. The context of this recommendation is not mentioned, but it likely relates to language policies and education.

**Scope of "Secondary Education" and Language Choice:** The text of the Law might give the impression that the language choice is only applicable to secondary education, excluding primary and higher education. However, Ukrainian authorities informed the Venice Commission that in Ukrainian law "secondary education" encompasses what is commonly referred to as primary education. Additionally, specific legislation is in place for higher education.

**Venice Commission's Response:** The Venice Commission acknowledges and accepts the explanation provided by the Ukrainian authorities, expressing satisfaction with the clarification regarding the scope of "secondary education" and the language provisions.<sup>20</sup>

## Public Policy in the Sphere of National Minorities

Section III of the Law focuses on public policy in the realm of national minorities (communities). The Venice Commission generally welcomes these provisions. However, it suggests introducing an additional objective to ensure the linguistic survival of endangered languages.

Article 14 outlines financial support from the state budget for activities related to the rights and freedoms of national minorities and their public associations, a provision that the Commission views positively.

The Commission recommends reinstating a rule that empowers local self-government bodies to provide for topographical indications (signs with place names) in minority languages.

Article 19 of the Law addresses centers for national minorities, encompassing their establishment, direction, and forms of activity. The Commission suggests clarifying the composition, powers, and tasks of these centers in the Law.

## International Cooperation and Foreign Relations of National Minorities

The Commission generally welcomes Section IV on international cooperation and foreign relations of national minorities. However, Article 21(2) prohibits individuals belonging to

national minorities and their associations from cooperating with foreign entities that undermine Ukraine's security, among other activities. The Commission recommends that these restrictions, related to the armed aggression against Ukraine, be included in transitional provisions or criminal legislation to avoid excessive restrictions on freedom of association without specifically targeting persons belonging to national minorities.

## Final and Transitional Provisions

In Section V of the Law, under final and transitional provisions, certain rights, such as peaceful assembly and state funding for events related to the exercise of minority rights, may be temporarily restricted during martial law and six months after its termination. The Venice Commission acknowledges the possibility of derogation from freedom of assembly and association during times of armed aggression but highlights that any restrictions should not be discriminatory.

*“To the extent that the temporary restrictions are only applicable to persons belonging to national minorities, the Venice Commission endorses the stance taken by the United Nations High Commissioner on Human Rights that ‘the measures envisaged by paragraph 3 of the transitional provisions appear to be discriminatory and therefore not in line with Article 4 of the ICCPR.’”<sup>21</sup>*

The Opinion suggests specifying a list of issues to be regulated at the secondary legislation level and defining the scope of these matters.

## Conclusions and Recommendations of the Venice Commission

The Commission recommends the amendment or reconsideration of parts of the Law on National Minorities to ensure full compliance with international standards. Key recommendations include:

- Extend the right to organize events in minority languages to all individuals.
- Remove the obligation to provide interpretation into Ukrainian at public events, or at least reconsider it to avoid disproportionate burdens.
- Clarify the obligations and terminology related to the language of book publications, to avoid discriminatory restrictions against regional or minority languages.
- Ensure legal certainty regarding official inscriptions and general information translated into minority languages.
- Revise the Law to ensure the use of minority languages in interactions with administrative authorities.

The Venice Commission also reiterates its earlier recommendations concerning other laws, which explicitly or implicitly referred to by the Law on National Minorities (Communities):

- Reconsider provisions in other laws that limit the freedom to use minority languages, and their differential treatment.

- Ensure access to mass media in minority languages by removing quotas<sup>22</sup> that limit the percentage of mass media that are broadcast in minority languages.
- Further postpone the transformation of the minority language school system, considering the recommendations from their 2017 Opinion.

The Venice Commission expresses its willingness to provide further assistance to the Ukrainian authorities and the Parliamentary Assembly.

## Summary and Reaction by the Hungarian Minority in Ukraine

The Venice Commission underscores the importance of aligning the Ukrainian Law on Minorities with international standards. Their recommendations stress the importance of revising specific sections of the Law to ensure explicit and legally precise protections for minority language right. Furthermore, they advocate for the removal of onerous mandates concerning the use of the state language, which disproportionately burdens minorities. With respect to minority language education, the Commission reiterates its earlier stance: the planned transformation of the minority-language school system should be postponed and revised in accordance with the Commission's earlier recommendations from 2017.

The cooperation and dedication of the Ukrainian authorities to engage in constructive dialogue with the Venice Commission will be pivotal for the successful implementation of the recommendations.

Equally important is that Ukrainian authorities involve national minorities in consultations for assessing and implementing the Venice Commission's Opinion.

The **Cultural Alliance of Hungarians in Sub-Carpathia** ([KMKSZ](#)) expressed its appreciation for the Commission's Opinion on the Law on National Minorities and for the Commission's emphasis on Ukraine's international commitments and European standards for minority protection. With regard to education and language rights, KMKSZ conveyed its disappointment that Ukrainian authorities failed to make recommended corrections in these areas prior to the adoption of the Law.

According to **KMKSZ President Dr. László Brenzovics**:

*"The recent laws in Ukraine prohibit minorities from practicing the rights they used to have, years before the EU enlargement process began - rights they have already acquired. Instead of losing these acquired rights, they should be able to fully exercise them in a 21st-century European Union, especially in a Ukraine that is at the doorstep of the European Union. We also observe that in Brussels, in many cases, there is a lack of awareness regarding the true situation of the Hungarian, Romanian, or Bulgarian minorities living in Ukraine and what is actually taking place."*<sup>23</sup>

**KMKSZ welcomes the Ukrainian Parliament's decision to postpone the enforcement of Article 7 of the Education Act by one year<sup>24</sup> but notes that further amendments to legislation related**

**to minorities will be necessary to achieve a satisfactory resolution. In the interim, KMKSZ stresses the need for full implementation of the Venice Commission's recommendations.**

**On August 10**, KMKSZ and the Democratic Alliance of Hungarians in Ukraine (UMDSZ) released a joint [statement](#) expressing "support for efforts to amend the Law on National Minorities (Communities) in Ukraine and to expand the rights of minorities in line with the recommendations of the Venice Commission and the Committee of Experts of the European Charter for Regional or Minority Languages."

The organizations raise objections to the procedural aspect of the proposed amendment. Specifically, the motion was introduced shortly before the debate, which prevented them from conducting a thorough legal analysis, crafting substantive proposals, or engaging in meaningful communication.

In addition, they express regret that none of the constructive recommendations they made during the nearly one-year deliberation period prior to the adoption of the Law were included in the amendment. Moreover, the amendment is slated to be adopted by the Ukrainian Parliament in mid-September leaving no time for substantive discussion nor to submit well-substantiated recommendations.

As regards the substance of the proposed amendment<sup>25</sup>, the statement points out problems with the content, specifically

- the mere declaratory nature of additions, some of which duplicate other legal documents,
- the use of undefined concepts with little relevance to the enforcement of the law yet allowing for arbitrary interpretation, and
- failure to consider Council of Europe Recommendation No. 1201, namely, that an important criterion for the definition of national minorities is that their representatives "traditionally live on the territory of Ukraine within its internationally recognized borders," would be deleted from Article 1 of the Law, if adopted. Consequently, all citizens of Ukraine who are not ethnic Ukrainians (or members of indigenous peoples) would be included in the category of national minorities.
- In their view, several passages of the draft are discriminatory and violate fundamental human rights, and they, therefore, recommend revision and/or deletion.

**Dr. László Brenzovics and Dr. László Zubánics, president of UMDSZ**, conclude by stating that "as a whole, the proposed amendment does not restore all the rights of minorities guaranteed by the Constitution of Ukraine, and moreover, it does not serve to restore the minority rights that existed previously."

---

<sup>1</sup> The Venice Commission, consisting of independent constitutional lawyers, is an advisory body of the Council of Europe. The EU is the main institutional partner of the Council of Europe.

<sup>2</sup>Ukraine CDL-AD (2023)021 – Opinion law on national minorities (Communities) – Adopted by the Venice Commission at its 135th Plenary Session, Venice, 9-10 June 2023.

<sup>3</sup> Venice Commission, CDL-AD(2017)030, Ukraine - Opinion on the provisions of the Law on Education of 5 September 2017, which concern the use of the State Language and Minority and other Languages in Education.

<sup>4</sup> Venice Commission, CDL-AD(2019)032, Ukraine – Opinion on the Law supporting the Functioning of the Ukrainian Language as the State Language.

<sup>5</sup> On 14 December 2022, the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU) provided an analysis of Bill No. 8224 “On national minorities (communities) of Ukraine,” which had been adopted in final reading by the Parliament the previous day and was signed by the President’s on 29 December. This analysis, which relies extensively on the previous opinions of the Venice Commission, will be referred to where appropriate.”

<sup>6</sup> Ukraine CDL-AD (2023)021 – Opinion Law on National Minorities (Communities) – Adopted by the Venice Commission at its 135th Plenary Session, Venice, 9-10 June 2023, p. 7.

<sup>7</sup> “The Romanian Ministry of Foreign Affairs considers it regrettable that the law was adopted without adequate consultation with the representatives of the Romanian community in Ukraine, as requested by the Romanian side.” Source: Comunicat de presă - Ministerul Afacerilor Externe, [www.agerpres.ro](http://www.agerpres.ro).

<sup>8</sup> “Article 5(7), concerning the “popularization and propaganda of the terrorist state (aggressor state)” and similar actions, is clearly to be seen in the context of the present Russian aggression against Ukraine.” CDL-AD(2023)021, p.10.

<sup>9</sup> “Article 10(1) of the Law recognizes to every person belonging to a national minority the right to free and unimpeded use of the language of his/her national minority. This right is, however, only recognized ‘to the extent not contradicting the law.’ While such a formulation appears acceptable as such, it should not be interpreted as only allowing those restrictions by legislation as are in conformity with the Constitution and international treaties.” CDL-AD(2023)021, Point 37., p. 11.

<sup>10</sup> CDL-AD(2023)021, Point 37., p. 11.

<sup>11</sup> CDL-AD(2023)021, Point 38., p. 11.

<sup>12</sup> When the Venice Commission refers to “documents and decisions which are necessary in order to exercise legitimate public functions,” they are recommending that the requirement to adopt documents and decisions in Ukrainian should be limited to those essential for carrying out their official activities and interactions with the government. The Venice Commission is suggesting that not all documents and decisions of these entities need to be in Ukrainian, as this could be seen as a limitation on the freedom of association and self-organization.

<sup>13</sup> The laws of Ukraine are the highest normative acts in Ukraine. The secondary legislation of Ukraine comprises other normative acts, including decrees, resolutions, and orders issued by the President of Ukraine, Cabinet of Ministers of Ukraine, National Bank of Ukraine, ministries, and other state agencies.

<sup>14</sup> Topographical indications refer to names or terms that are used to identify specific geographical locations, landmarks, or places. These indications are often associated with natural features, such as mountains, rivers, valleys, and other geographical elements, as well as man-made structures like cities, towns, villages, and historical sites.

<sup>15</sup> CDL-AD(2023)021, Point 54, p. 17.

<sup>16</sup> The Law does not provide specific and detailed rules for how these minority languages should be used in administrative interactions. Instead of providing exact rules itself, the Law delegates the task of creating a

---

”methodology” to the Cabinet of Ministers. The Venice Commission, in its recommendations, suggests that the Law should include clear rules, rather than leaving it to be decided later by the Cabinet of Ministers.

<sup>17</sup> Ukraine CDL-AD (2023)021 – Opinion Law on National Minorities (Communities) – Adopted by the Venice Commission at its 135th Plenary Session, Venice, 9-10 June 2023, p. 19.

<sup>18</sup> Point 63 of the current Opinion.

<sup>19</sup> HHRF notes that in June 2023 the Supreme Council of Ukraine approved Law No. 9332 on postponing the transition to the Ukrainian language until September 1 2024 in schools where teaching is conducted in the language of one of the EU member states.

<sup>20</sup> CDL-AD(2023)021, p. 21.

<sup>21</sup> United Nations, High Commissioner’s Office, Opinion on the draft law, p. 22.

<sup>22</sup> Ukraine CDL-AD (2023)021 – Opinion law on national minorities (Communities) – Adopted by the Venice Commission at its 135th Plenary Session, Venice, 9-10 June 2023, p. 23, point 80.

<sup>23</sup> Statement at the Seminar on Minority Rights in the EU Enlargement Process, May 23, 2023, at the European Parliament.

<sup>24</sup> See footnote 19.

<sup>25</sup> The amendment was drafted by the State Service of Ukraine on Ethnopolitical and Freedom of Conscience Issues (as the supreme executive body competent in this matter) and the Committee of the Supreme Council of Ukraine on Human Rights, De-Occupation and Reintegration of Occupied Territories of Ukraine, National Minorities and Interethnic Relations; and sent one day before the public debate on August 8th.

---

*The Hungarian Human Rights Foundation (HHRF) is a New York-based, independent, international non-profit which, since 1976, has advocated for the human rights of 2 million ethnic Hungarians who live as minorities in Croatia, Romania, Serbia, Slovakia, Slovenia and Ukraine.*

[hhrf.org](http://hhrf.org)

**United States:** 120 East 90th Street, Suite 5D, New York, NY 10128; tel: 1-212-289-5488; e-mail: [info@hhrf.org](mailto:info@hhrf.org)

**Magyarország:** 1255 Budapest, pf. 66.; tel: +36-30-639-2545; e-mail: [viktor@hhrf.org](mailto:viktor@hhrf.org)

**Romania:** str. Moșilor 9., 400001 Cluj; tel: +40-735-445003; e-mail: [mazs@hhrf.org](mailto:mazs@hhrf.org)