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**ADDITIONAL COMMENTS BY MR. ALEXANDER LUKASHEVICH,
PERMANENT REPRESENTATIVE OF THE RUSSIAN FEDERATION,
AT THE 1270th MEETING OF THE OSCE PERMANENT COUNCIL
VIA VIDEO TELECONFERENCE**

4 June 2020

On the violation of the rights of national minorities by the Ukrainian authorities

Mr. Chairperson,

Our Ukrainian colleague assures us of the legality of the measures implemented in Ukraine in the linguistic and educational spheres. If the problems regarding observance of the rights of national minorities are contrived, why do a number of authoritative international organizations and institutions point to them? And they also note that the laws on education and the State language adopted by the Ukrainian authorities violate a number of Ukraine's domestic and international legal obligations.

In the first place, the laws contravene the country's Constitution, Article 10 of which provides for the free development, use and protection of Russian and other languages of national minorities. The ban on the use of languages and the elimination of access to education in them negates this provision.

The laws on education and the State language are also incompatible with Article 53, which states that citizens belonging to national minorities are guaranteed by law the right to education in their native language. As has already been noted, from 2020 and 2023, respectively, neither Russian speakers nor minorities speaking the languages of European Union countries will be guaranteed access to education in their languages.

They also violate Article 11, which stipulates that the State shall promote the development of the ethnic, cultural, linguistic and religious identity of indigenous peoples and national minorities in Ukraine, and Article 22, which states that 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.

The current linguistic and education legislation contravenes Article 24 of the Constitution, which stipulates that citizens have equal constitutional rights and freedoms and are equal before the law, notably in terms of language, 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.

Regarding international obligations, the new laws violate Article 27 of the International Covenant on Civil and Political Rights, which has been ratified by Ukraine. This stipulates that “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 listed by us are aimed at restricting the use by Russian speakers and national minorities of their native languages.

Council of Europe norms are also being trampled upon. 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 accompanying declaration, Ukraine explicitly stipulated the applicability of its provisions 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 and prevail over ordinary laws. This means that the law on the State language and other legislation on minorities have to be in conformity with them.

Consequently, 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.

Ukraine is also failing to abide by its OSCE commitments. The language laws and both education laws violate the 1990 CSCE Copenhagen Document. Paragraph 34 of the Document states: “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 states: “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, there is no guarantee of mother-tongue instruction let alone the promotion of one’s identity.

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 “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 the instruction in the language of indigenous people 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 and concluded that in the absence of a specific law on the protection and

use of minority languages, the current legal framework does not strike a fair balance between strengthening the role of the Ukrainian language and providing sufficient guarantees of the linguistic rights of national minorities.

The OSCE High Commissioner Lamberto Zannier has repeatedly pointed out the absence of mechanisms for protecting the linguistic rights of minorities in connection with the adoption of this law and the need to eliminate the different attitude to the languages of the European Union compared with those of other countries.

It is clear that the language problem is not contrived. It is an instrument of the Ukrainian Government's discriminatory policy. And instead of distorting the facts, Ukraine should stop violating its obligations.

Thank you for your attention.