



**Organization for Security and Co-operation in Europe  
High Commissioner on National Minorities**

**The Hague, 12 January 2001**

Dear Mr. Minister,

In the beginning of last year, the government of the Russian Federation requested me to investigate the situation of Russian language education in your country. When I discussed this with your government, it offered to facilitate such an investigation, but requested in return that I would undertake a similar investigation regarding the opportunities for Ukrainians living in Russia to be educated in the Ukrainian language. The Russian government also declared itself willing to facilitate such an investigation.

In the course of the last year I have conducted these investigations in your country, visiting Kharkiv, Lviv, Odessa and Simferopol accompanied by two experts, Professor Bowring from the United Kingdom and Mr. Zhekov from Bulgaria. In these cities I spoke both with the local and the regional authorities and representatives of the Russian community. In Kiev, I had extensive conversations with governmental authorities on several occasions. I want to thank the government of Ukraine for its cooperation.

**H.E. Mr. Anatoly M. Zlenko**  
**Minister for Foreign Affairs**  
**Ukraine**

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Simultaneously with my letter to you I send a letter to your Russian colleague, Mr. Ivanov, regarding the conclusions of my investigation regarding the opportunities for Ukrainians living in Russia to receive education in the Ukrainian language. My conclusions are based on visits to Moscow, St. Petersburg and Tyumen, where conversations took place with local and regional authorities and with representatives of Ukrainian organisations. In Moscow extensive consultations took place with governmental authorities. While in Moscow, I also received representatives of Ukrainian organisations in Krasnodar, Ekaterinburg and Moscow Oblast. In my work, I was again assisted by Professor Bowring and Mr. Zhekov.

Both my letter to you and to the Russian Foreign Minister, Mr. Ivanov contain a number of recommendations. As soon as I have received replies to these letters, I will see to it that your government will be informed about our correspondence with the Russian government, while the Russian government will be informed about our exchange of letters. As is the practice, the Permanent Council of the OSCE will be subsequently informed as well.

My recommendations concentrate mainly on educational issues. As you know, there will be a separate exchange of views between experts designated by your government and experts of our office on the draft language law in The Hague on 18 and 19 January.

### **Findings**

Since Ukraine has become independent in 1991, a decline in the number of Russian language schools has been noticeable, as is illustrated by the table herebelow:<sup>1</sup>

Language of Instruction of General Education Schools (percentage of schoolchildren)<sup>2</sup>

	<i>Russian</i>	<i>Ukrainian</i>
1991/92	50.0	49.3
1992/93	47.8	51.4
1993/94	44.9	54.3
1994/95	43.0	57.0
1995/96	41.0	58.0
1996/97	39.0	60.0
1997/98	36.0	63.0
1998/99	34.0	65.0

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<sup>1</sup> Quoted by Dr. Roman Solchanyk in his article "Russians in Ukraine: problems and prospects" in the publication "Cultures and Nations of Central and Eastern Europe", Harvard University Press, 2000, p. 544

<sup>2</sup> Sources: Ministerstvo statystyky Ukraïny, *Narodne gospodarstvo Ukraïny u 1993 rotsi. Statystychnyi shchorichnyk* (Kyiv, 1994), p. 384; Ministerstvo statystyky Ukraïny, *Statystychnyi shchorichnyk Ukraïny za 1995 rik* (Kyiv, 1996), p. 446; Derzhavnyi komitet statystyky Ukraïny, *Statystychnyi shchorichnyk Ukraïny za 1996 rik* (Kyiv, 1997), p. 457; and Derzhavnyi komitet statystyky Ukraïny, *Statystychnyi shchorichnyk Ukraïny za 1998* (Kyiv, 1999), p. 429

Various factors have to be taken into account in order to see these figures in their proper perspective. In the first place, they have to be seen against the background of the census of 1989 which showed that the number of persons of Russian ethnicity amounted to 22.1% of the total population of Ukraine, and the number of persons declaring Russian as their native language amounted to 32.8%.

Secondly, in the Krushchev years the percentage of children in Russian language schools was lower. In 1956/1957 it amounted to 26%.<sup>3</sup>

Also, it is remarkable that in areas of Ukraine where the percentage of ethnic Russians is higher, the drop of the percentage of children attending Russian language schools is far less, as the following table shows:

Russian-Language Instruction in General Education Schools in the East and in Crimea (percentage of schoolchildren)<sup>4</sup>

	<u>1991/92</u>	<u>1992/93</u>	<u>1993/94</u>	<u>1994/95</u>	<u>1995/96</u>	<u>1996/97</u>	<u>1997/98</u>	<u>1998/99</u>
Crimea	99.9	99.9	99.7	99.7	99.5	99.4	99.7	98.1
Donetsk	96.7	96.1	95.1	95.0	94.0	93.0	91.0	90.0
Luhansk	93.3	92.7	91.6	91.0	90.8	90.0	89.0	87.0

An important factor which certainly cannot be overlooked, is the number of pupils learning Russian in Ukrainian language schools. In an interview with “Stolichnye Novosti” of 24 October 2000 Prime Minister Yushchenko stated that 1.8 million schoolchildren (26.6% of the total number of pupils in general education schools) learn Russian as a subject in Ukrainian language schools.

Finally, it would be wrong to conclude that the decline in the number of Russian language schools is an indication for a general weakening of the position of the Russian language in Ukraine. Various data point in the opposite direction. Between 1995 and 1997, the number of Russian-language journals increased from 101 to 118 and the number of newspapers from 721 to 746. While the Ukrainian language predominates strongly in state radio and TV broadcasting time, it is estimated that almost two-thirds of total radio and television broadcasting time was in Russian.<sup>5</sup> In a 1994 survey, 43.5% of Ukrainians opted for Russian as their language of convenience; in 1999 that figure had risen to 50.9%.<sup>6</sup>

The decline of the percentage of pupils in Russian language schools since Ukraine became an independent state in 1991 was preceded by a continuous decline in the percentage of children in Ukrainian schools in the 30 years before independence. At the moment of independence, the percentage of pupils visiting Ukrainian language schools had dropped to around 50% and this while the percentage of the population that, according to the census of 1989, considered Russian as its native language constituted 32.8%. It is against this background that I assume the Ukrainian authorities decided in 1992 to try to bring the number of Ukrainian schools in conformity with the ethnic composition of the population in towns and regions. The increase of the percentage of pupils going to Ukrainian schools in the years since independence is therefore probably mainly due to the fact that more ethnic Ukrainian children attended

<sup>3</sup> Jan Germen Janmaat, *Nation Building in Post-Soviet Ukraine*, Utrecht-Amsterdam 2000, p. 109

<sup>4</sup> Solchanyk, *Ibidem*, p. 545

<sup>5</sup> Solchanyk, *Ibidem*, p. 546

<sup>6</sup> Solchanyk, *Ibidem*, p. 545

Ukrainian language schools. But it is likely that other factors have played a role as well; for instance, the conviction of many parents that in an independent Ukraine it might be advantageous for the future careers of their children to go to Ukrainian language schools.

### **Current legislation**

As far as current legislation is concerned, the Constitution of Ukraine is the main guarantee of the linguistic and educational rights of persons belonging to national minorities.

Regarding linguistic rights, article 10 para 3 of the Constitution provides: "In Ukraine, the free development, use and protection of Russian, and other languages of national minorities, is guaranteed".

Regarding educational rights, article 53 para 5 of the Constitution provides: "Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language or to study their native language in state and communal educational establishments and through national cultural societies".

The use of the word "guaranteed" in both articles is especially relevant in formulating the rights of citizens. The legislator can use no stronger expression. It means that the legislator has chosen a mandatory, and not a permissive system of granting rights. In an organic law, the legislator can formulate detailed provisions about the content of such a right, but, once the Constitution has guaranteed a right the actual exercise of that right cannot be linked to a system of licenses.

Another guarantee for the right of persons belonging to national minorities in Ukraine is the Framework Convention for the Protection of National Minorities of the Council of Europe, ratified by Ukraine on 9 December 1997 without any reservation. As provided in article 9 of the Constitution of Ukraine, the Framework Convention has thus become part of the national legislation of Ukraine.

The Law of Ukraine on National Minorities, adopted on 25 June 1992, is also of considerable significance for the educational rights of persons belonging to national minorities in Ukraine. Article 6 of this law reads in part: "The State guarantees all national minorities the right of national-cultural autonomy; to use and to be educated in one's native language in that educational institution or through national cultural societies..."

It is striking that in this article, like in the Constitution, the word "guarantees" is being used. Regarding the 1989 Law on Language, which is still in force (insofar as in conformity with the 1996 constitution), article 25 is especially relevant. It provides: "The free choice of language for learning shall be the integral right of the citizens of the Ukrainian SSR".

I have been assured by the Ukrainian authorities with whom I discussed the principle of free parental choice as laid down in article 25 of the Law on Language that it remains a cornerstone of Ukrainian educational policies. Also, it was stressed that if a group of 8 to 10 ethnic Russian citizens of Ukraine wants the creation of a separate Russian class in a Ukrainian language school, such a class will be created, just as a separate Ukrainian class will be created in a Russian language school if a similar number of Ukrainian parents ask for this.

The conclusion to be drawn about the legal provisions which provide the basis for the educational policy of Ukraine regarding the various national minorities, including the large group of citizens of Russian ethnicity, can only be that if they all applied fully in letter and spirit, such a policy meets all relevant international standards in this field. However, it has also to be taken into account that at the local level there has frequently been a tendency to

interpret the relevant legislation in a way which was considered to be better adapted to the local situation. The inevitable consequence was of course that the law has not been interpreted in a uniform way. To be added to this is the fact that in the course of the years implementing decrees and directives have been issued which were not always consistent with previous ones. This is especially reason for the fear that the emphasis on bringing the percentage of pupils more in conformity with the ethnic composition of an area has worked to the detriment of the principle of free parental choice. Insufficient knowledge of the right to claim the creation of a separate class if it could be demonstrated that parents of 8 to 10 pupils would want this, might have been another factor.

### **Recommendations**

Regarding future educational policies, I should like to make the following recommendations to your government:

1. As I indicated above, the current legislation which is of relevance for the educational rights of persons belonging to national minorities is in conformity with international standards. I therefore recommend that it will remain unaltered or at any rate not be weakened to the disadvantage of the various national minorities.
2. I have noted with regret that in the governmental draft for a new language law, article 25 of the language law presently in force, regarding the principle of parental choice, has been deleted. I appeal to the government and the parliament to ensure that in the text of the new law which will be ultimately adopted, the text of article 25 of the present law will be maintained. It is a cornerstone for any policy aimed at providing equal educational rights for all ethnic groups in Ukraine and can therefore not be missed.
3. It is desirable to ensure more clarity regarding the right of parents to request the setting up of a Ukrainian language class in a Russian language school or of a Russian language class in a Ukrainian language school, provided that the parents of at least 8 to 10 children apply. School boards would have to be obliged to inform parents annually that such possibilities exist, and would also have to indicate by which date applications will have to be received. In order to help to overcome the frequently occurring problem of lack of communication between potentially interested parents, school boards ought also to be obliged to inform parents if one or more parents have taken the initiative to apply for a separate class.

Regarding parental rights in general, I would recommend that a more transparent complaint system be set up at the local level, with the possibility of appeal at the central level.

4. While it is perfectly legitimate for the government of Ukraine to strive for an expansion of the knowledge of the state language, the realisation of this aim ought not to be sought through restrictive measures regarding minority languages in Ukraine. This would constitute a violation of article 10 para 3 of the Constitution which guarantees the free development, use and protection of Russian, and other languages of national minorities in Ukraine.
5. In Ukraine, it is generally recognized that, even though Ukrainian is the state language, the Russian language remains quite important for the country as well. In this respect, Prime Minister Yushchenko stated recently that 34.1% of the pupils in general education schools attend Russian language schools, while 26.6% learn Russian as a subject at Ukrainian language schools. However, in the Ukrainian language schools the Russian language is no longer a compulsory subject as was the case in the past. In the component

of the curriculum determined by the state a number of 15 hours are now reserved for the teaching of foreign languages. But quite often these hours are used for teaching English or German<sup>7</sup>. When Russian is taught as a subject, it is therefore mainly in those schools which are willing to include this as part of the component of the curriculum determined by them, or if it proves to be possible to incorporate the teaching of Russian in the hours which can be chosen by pupils.

In the revised version of the Resolution of the Cabinet of Ministers of Ukraine regarding the comprehensive development and functioning of the Ukrainian language of 21 January 2000 the Ministry of Education and Science has been asked to determine the optimal proportion, list and order of subjects belonging to invariant and variant parts of the standard study plans that are to be taught in the official language and in the languages of national minorities. I express the hope that the government, when deciding on these proposals, will ensure that there will be adequate opportunities for learning the Russian language in Ukrainian language schools.

6. I also express the hope that the process of ratification of the Council of Europe's Charter for Regional or Minority Languages will be completed as soon as possible.

These are the recommendations I should like to submit to you, Mr. Minister. I am looking forward with great interest to your reply.

I have taken the liberty to send a copy of this letter to the Minister of Education, Mr. V. Kremen.

Yours sincerely,

Max van der Stoel  
OSCE High Commissioner  
on National Minorities

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<sup>7</sup> Janmaat, *Ibidem*, p. 71/72

# MINISTER FOR FOREIGN AFFAIRS OF UKRAINE

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Kyiv, 6 April 2001

**Dear Mr. High Commissioner,**

In reply to your letter I would like first of all to thank you sincerely for the great attention attached by you to the issues of Russian-language education in Ukraine as well as to the possibilities for obtaining Ukrainian-language education by ethnic Ukrainians living in the Russian Federation.

Your high assessment of Ukrainian current legislation regarding educational rights of the national minorities, in particular their conformity with generally recognized international norms and standards is of special importance to us. Your competent conclusion should stimulate further democratic development of state policy and practical measures in the field.

It should be also noted that the comprehensiveness and objectiveness of your examination were to a great extent promoted by complex approach used by you. Because of this, several factors, which seriously influenced the object of your investigation, were taken into account. In particular, we think that the examination of the issue in its historical dimension allowed taking into account the fact that decrease of percentage of Russian language schools since Ukraine has become independent in 1991 was due to change of language identity of a considerable share of ethnic Ukrainians during the 30 years preceding independence, and were the results of russification conducted during the Soviet period.

The conclusions based on your investigation and recommendations regarding future Ukrainian state policy are being carefully studied by state institutions of Ukraine with regard to their practical implementation. Thus, we attach the relevant information concerning the implementation of your recommendations.

The results of your work, in particular your recommendations, require comprehensive and thorough elaboration by relevant Ukrainian authorities and will be taken into account and used in day-to-day practical activities.

In this connection I would like to express my gratitude once again to you and your colleagues participating in examination of the issues of Russian language education in Ukraine and possibilities for obtaining Ukrainian language education by ethnic Ukrainians living in the Russian Federation.

I am looking forward for further fruitful contacts.

Truly yours,

[signed]

**Anatoly Zlenko**

**His Excellency  
Mr. Max van der Stoel  
OSCE High Commissioner  
on National Minorities,  
Vienna**

## **Information on implementation of the recommendations of OSCE High Commissioner on National Minorities Mr. Max van der Stoep**

The Ministry of Foreign Affairs of Ukraine in co-operation with other related institutions of Ukraine and local educational authorities are consistently undertaking measures to ensure the rights of national minorities regarding education in their native language and its study in accordance with the Constitution of Ukraine, the Laws of Ukraine “On Education”, “On Languages”, “On National Minorities” and other laws of Ukraine.

Regarding Recommendation 1. National legislation and regulatory practice of ethno-national processes in the field of education are determined in our country in accordance with international standards in this field.

Thus, Article 1 of the Constitution of Ukraine consolidates general rights of national minorities to preserve ethnic, cultural, linguistic and religious originality, which are declared in almost any international instrument. This Article makes impossible assimilation policy described in Article 5 para 2 of the Framework Convention.

Universal international legal instruments (Framework Convention, European Charter for Regional or Minority Languages) pay much attention to proper satisfaction of the right of national minorities for education. Special documents were elaborated on this issue, in particular, the Hague Recommendations on the Right of National Minorities for Education. It should be noted, though, that Ukrainian laws envisage broader rights of national minorities than those envisaged by the paragraphs 12-13 of those Recommendations.

Guarantees of education in native language or of its study contained in paragraphs 1-2 of Chapter 11 of Framework Convention are consolidated in the Article 53 of Constitution of Ukraine.

Article 6 of the Law of Ukraine “On National Minorities” reflects education at all levels (pre-school, elementary and high school, vocational school, higher education) in languages of national minorities declared by European Charter for Regional or Minority Languages).

Existing network of educational establishments is an evidence of practical implementation of those international instruments in Ukraine. Thus, in 2000/01 the system of pre-school establishments of the Ministry of Education and Science of Ukraine there were 2057 of them using national minorities’ languages (252797 children), 1936 of them used Russian language (248.6 th. children). 2402 (1148.5 th. pupils) out of total 21258 general schools (6650.9 mln. pupils) are teaching in national minorities’ languages; those figures include 2215 schools teaching in Russian (1098.3 th. pupils). 2236 schools teach in two languages (Ukrainian and Russian) and 1917.2 th. pupils are taught in Russian there.

Besides, 1829.4 th. pupils study Russian as a subject and 103777 pupils study it optionally.

Teachers of Russian language and literature are trained with the following specializations: Russian language and literature, Russian and Ukrainian language and literature, Russian language and literature and a foreign language. Teachers of elementary school are being trained to teach Russian as well.

The aforesaid represents the evidence of long-term state policy in the sphere of education of national minorities in Ukraine.

Regarding Recommendations 2.4. New social and political realities of Ukraine as a sovereign state require language policy aimed at establishment of optimal language space of the state and successful settlement of linguistic problems, thus consolidating the society. New draft Law “On Development and Use of Languages in Ukraine” pursued the same goal, stating clearly that Ukrainian language as the state language is a basic mean of



communication and at the same time the state envisages measures as to protect and develop national minorities' languages.

Speaking about preservation of possibility of parental choice of language of education, it should be noted that this is a priority of activities and regulatory documents of the Ministry of Education and Science of Ukraine in accordance with Article 10 of the Constitution of Ukraine, which guarantees free development, use and protection of Russian and other national minorities' languages in Ukraine.

Regarding Recommendation 3. In accordance with the Laws of Ukraine "On Education", "On General Secondary Education" And Instructive Letter of the Ministry of Education and Science dated 7 October 1996, a possibility of creation of classes or groups with minorities' languages as languages of teaching if at least 8-10 parents want this, and at least 5 – in rural areas.

Recommendations regarding obligations of school boards to inform parents about establishment of relevant classes or groups are fulfilled in accordance with Article 18 of the Law of Ukraine "On General Secondary Education", which obliges general secondary educational establishments to register before the beginning of academic year all pupils who have to go to school and want to study in that particular establishment and to form relevant schools or groups.

Speaking about the rights of parents to appeal against actions of local authorities, it should be noted that those rights are safeguarded by the Law of Ukraine "On Appeals of Citizens", which regulates examination of citizens' appeals to public authorities and sets relevant terms of the examination.

Regarding Recommendation 4. Study of Ukrainian language is conducted in accordance with improved curriculums of general educational establishments and does not limit the possibilities of representatives of national minorities to study their native languages. National minorities' languages are studied by request of pupils and their parents.

Regarding Recommendation 5. Educational process in Ukraine's general educational establishments is carried out on the basis of standard curriculums. They envisage that Russian language and literature are studied as compulsory subjects in Russian language general educational establishments. A relevant number of hours is allocated weekly for this purpose.

Besides, variant part of standard curriculum of general educational establishments with other than Russian languages of teaching envisages that study of Russian language as well as other national minorities' languages is optional.

In accordance with the Decree of the Cabinet of Ministers of Ukraine " On conversion of General Educational Establishments into a New Content, Structure and 12-year Term of Study" dated 16 November 2000, Standard Curriculums of Elementary Schools with Ukrainian language and other minorities' language of study were elaborated and approved (Order of the Ministry of Education and Science of Ukraine dated 28 January 2001).

Elementary Ukrainian school envisages option of study of national minorities' languages (incl. Russian) starting from the 2<sup>nd</sup> grade, in compliance with the Recommendations of OSCE High Commissioner on National Minorities.

The right to select the language of education is reserved to the parents and their children.

Approval of Standard Curriculums of Elementary Schools represents fulfillment of item 5 of [Plan of] Events of the Ministry of Education and Science of Ukraine and the Decree of the Cabinet of Ministers of Ukraine "On Introduction of Amendments and Supplements to the Decree of the Cabinet of Ministers of Ukraine #998 Dated 8 September 1997" dated 21 June 2000. Those documents were mentioned in Recommendations of OSCE High Commissioner on National Minorities regarding

determination of the optimal proportion, list and order of subjects and courses of invariant and variant parts of the standard curriculums.

Regarding Recommendation 6. At this time relevant state bodies of Ukraine study the European Charter for Regional or Minority Languages in order to submit to the Verkhovna Rada of Ukraine all necessary documents for ratification of the above-mentioned charter.