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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**REVISED DRAFT LAW  
AMENDING THE LAW  
“ON NATIONAL MINORITIES”  
OF UKRAINE**

**(May 2004)**

**DRAFT**

**Law of Ukraine  
amending the Law of Ukraine “On national minorities in Ukraine”**

*submitted by Ukraine Peoples’ Deputies  
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In order to improve the law in respect of national minorities the Supreme Council of Ukraine hereby decrees:

1. That the Law of Ukraine “On national minorities in Ukraine” (Supreme Council of Ukraine Report, No. 36, p. 529, 1992) shall be amended to read as follows:

**LAW OF UKRAINE  
“On protecting the rights of national minorities in Ukraine”**

This Act shall regulate the conditions for the protection of the rights of national minorities in accordance with the international obligations of Ukraine.

**Section 1. General provisions**

Article 1. Definition of terms

For the purposes of this Act the following terms shall apply:

- a) the term “national minority” shall mean a group of citizens of Ukraine who are not Ukrainian, who live on the territory of Ukraine, who demonstrate ethnic, cultural, religious and/or linguistic features, who proclaim and express a desire to preserve their identity and whose number is less than half the population of Ukraine;
- b) the term “persons from national minorities” shall mean citizens of Ukraine who acknowledge that they belong to a national minority and/or express the desire to preserve their national identity.
- c) the term “territory of compact residence” shall mean a particular territorial and administrative unit of Ukraine - the Autonomous Republic of Crimea, region, district, settlement, village - where the number of citizens of a national minority who reside on this territory is sufficient to activate the incentive measures and other measures specified in this Act;
- d) the term “national and cultural autonomy” shall mean a form of national and cultural self-determination, in which persons from national minorities come together to form public associations, on a freely organised basis, in order to independently resolve issues relating to the preservation and development of their ethnic identity, language, education and culture.

Article 2. Basic principles of state policy with regard to protection of the rights of national minorities

In ensuring protection of the rights of persons from national minorities the state shall assume that such rights are an inalienable part of universally recognised human rights.

Ukraine shall guarantee citizens, irrespective of their national origin or whether they belong to any national minority, equal political, social, economic and cultural rights and freedoms, and shall support the development of national consciousness.

The state shall promote the consolidation of society and citizens of all nationalities who inhabit the territory of Ukraine, and the development of the cultural, linguistic and religious identity of the national minorities of Ukraine.

The state shall promote the comprehensive development of national minorities.

Every citizen of Ukraine shall be bound to observe the Constitution and laws of Ukraine, to defend its sovereignty and territorial integrity, to respect the languages, cultures, traditions, customs and religious distinctiveness of other citizens, irrespective of nationality.

Any incitement of racial, inter-ethnic, linguistic or religious hatred and any discrimination on grounds of national characteristics shall be deemed to violate the state interests of Ukraine and any persons guilty thereof shall be called to account before the courts.

Article 3. Legal regulation in the field of national minorities

The relations arising from the exercise by citizens of Ukraine of the rights and freedoms linked to their affiliation to national minorities shall be governed by the Constitution of Ukraine, this Act and other laws of Ukraine and by any international agreements and documents which Ukraine has entered into or to which it has acceded.

**Section II. Special features concerning the exercise of the rights of persons from national minorities**

Article 4. Recognition of nationality

Citizens of Ukraine shall be free to choose and restore/renew their nationality. Every citizen of Ukraine shall have the right to be recognised as a person who belongs to a national minority and also to declare that they belong to a national minority to the public, state bodies or local authorities, companies and institutions by the means available to them.

Article 5. The right to a national first name

Every citizen of Ukraine shall have the right to a national surname, first name and patronymic.

Citizens may restore/renew their national surnames, first names and patronymics in the manner prescribed by law.

Citizens whose national tradition does not include the custom of using patronymics shall have the right to enter the first name and surname alone in their passport, and the first name of the father and mother in the birth certificate.

#### Article 6. Means of exercising rights by persons from national minorities

Persons from national minorities shall be free to choose the extent and methods by which they are to exercise the rights conferred on them by the current laws of Ukraine and to realise those rights in person and also through the relevant state bodies and/or public associations which represent the interests of national minorities.

Persons from national minorities shall be entitled either individually or jointly with other members of a national minority to manifest and develop their ethnic, linguistic, cultural and religious identity.

The participation or non-participation of a citizen of Ukraine in a public organisation which represents the interests of a national minority shall not be grounds for restricting their rights.

#### Article 7. The exercise of political and social rights

Persons from national minorities shall be entitled on an equal footing with other citizens of Ukraine to participate in the cultural, social, political and state life of Ukraine and may exercise these rights both individually and jointly with others by creating public associations.

Persons from national minorities shall have the right to be elected or appointed on an equal footing to any post in the legislative, executive and judicial bodies and to local authorities. Under the laws of Ukraine national minority organisations and associations shall have the right to put forward candidates for election to state authorities.

#### Article 8. Exercise of rights

The exercise or non-exercise of the rights of national minorities provided under the laws of Ukraine by a person shall have no negative legal consequences and may not serve as grounds for restricting the rights of persons from national minorities.

#### Article 9. Judicial protection

Persons from national minorities shall be entitled to judicial protection of the rights provided under this Act.

#### Article 10. The legal status of national and cultural autonomies

National and cultural autonomy shall be a form of national and cultural self-determination, in which persons from national minorities come together to form public associations, on a freely organised basis, in order to independently resolve issues relating to the preservation and development of their ethnic identity, language, education and culture.

National and cultural autonomy may have a territorial or extra-territorial character.

The procedure for establishing, and the activities of, national and cultural autonomies shall be governed by the Constitution of Ukraine, the current laws of Ukraine, this Act and other regulatory legal instruments. The exercise of the right to national and cultural autonomy must not harm the interests of other ethnic and national communities, national security or defence of Ukraine.

National and cultural autonomies shall not have the right to national and territorial determination.

#### Article 11. Legal powers of national and cultural autonomies

National and cultural autonomies shall have the right:

- to preserve and promote their historical and cultural heritage, to have free access to national cultural treasures;
- to revive national traditions and customs, restore traditional industries, artistic crafts, decorative and applied skills;
- to receive aid from state and local authorities for the purpose of protecting ethnic identity, national culture and the national language;
- to represent their national and cultural interests by appealing to the legislative and executive bodies and local authorities;
- to create (establish) media in the national languages in accordance with the laws of Ukraine;
- to take part in the drafting of state programmes for the protection and development of national cultures and languages;
- to create educational and scientific institutions, cultural establishments for national minorities, and to support their operation;
- to organise inter-ethnic cultural co-operation and the co-operation of national and cultural autonomies in resolving cultural, educational and media issues.

#### Article 12. Organisational principles for establishing national and cultural autonomies

National minority associations shall be the standard form of organisation for national and cultural autonomies.

In terms of organisation and status, national and cultural autonomies shall be divided into local (village, rural, district, municipal, regional, All-Crimean), All-Ukrainian and international.

The structure and organisational principles governing the establishment of national and cultural autonomies [\*\*\* text missing] by their statutes, the specific historical features and the demographic characteristics of the distribution of citizens of Ukraine who claim to belong to national minorities as ethnic communities.

#### Article 13. Exercise by national and cultural autonomies of the right to revive, protect and develop ethnic and national cultures

In order to meet the needs of persons from national minorities national and cultural autonomies shall have the right:

- to submit for examination by state and local authorities proposals for the protection and development of ethnic and national cultures;
- to initiate the creation on social principles of educational establishments for training specialists in the field of ethnic and national cultures;
- to establish creative unions, local collectives and groups to study the national and cultural heritage and modern achievements of ethnic and national culture;
- to organise the publication of fiction and specialist literature in minority languages;
- to establish on social principles national theatres, cultural centres, clubs, studios and to support their operation;
- to create media outlets in accordance with the laws of Ukraine, receive and disseminate information in minority languages;
- to promote large-scale events in the field of national culture: exhibitions, festivals, concerts, competitions;
- to organise international, All-Ukrainian, regional conferences, symposia, seminars and roundtables on issues relating to the development of cultures of national minorities;
- to monitor the cultural, educational and information needs of ethnic communities for consideration in the process of implementing the state ethnic policy of Ukraine;
- to organise ethnic regional studies, create local history, memorial and ethnographic museums and museum exhibitions;
- to resolve issues relating to the protection of national historical and cultural monuments of historical and cultural value;
- to revive and develop traditional national craft industries, crafts, decorative and applied skills;
- to organise international cultural co-operation based on agreements entered into with non-governmental, private and social organisations outside Ukraine.

### **Section III. Upbringing and education**

#### Article 14. Use of the mother tongue

Persons from national minorities shall have the right to communicate freely in their mother tongue, to study in their mother tongue or to learn their mother tongue and about the history and culture of the national minority in state, municipal and other educational establishments. The state shall assist persons from national minorities in educating their children in national customs, traditions, language and religion.

#### Article 15. Educational development programmes

The executive authorities and local authorities shall draw on proposals from national minority organisations in order to prepare programmes for promoting education among persons from national minorities.

The state shall adopt and fund the appropriate measures if the number of persons compactly residing in a particular area and their interests justify the adoption of such measures.

#### Article 16. Training of teaching staff

The state shall take measures to train teaching, cultural and educational and other national staff through a network of state and educational institutions. The state authorities shall assist national minorities in training specialists in other countries on the basis of interstate agreements.

#### Article 17. Creation of educational establishments

The state shall support the creation of pre-school, out-of-school, secondary, vocational and higher educational establishments for the study of the languages, history, culture and traditions of national minorities and/or other subjects in the languages of national minorities.

These establishments may be created by state bodies, local authorities, individuals and/or national minority organisations, from local authority funds, voluntary donations from individuals, charitable aid from companies and organisations and international technical aid, it being understood that such aid shall be exempt from taxation under Ukrainian tax legislation. An essential condition for the creation and operation of these establishments shall be the study of the Ukrainian language.

The allocation of state funds for creating the establishments referred to in paragraph one of this article shall be effected as stipulated by the Cabinet of Ministers of Ukraine.

#### Article 18. Higher education

Programmes for the study of the languages, history, culture and traditions of national minorities may be organised in state higher education establishments situated in territories of compact residence of persons from national minorities. Executive bodies and local authorities shall act as initiators of these measures on the basis of proposals from national minority organisations.

The admission of persons from national minorities to state higher education establishments shall be effected on universal principles.

### **Section IV. Relations with local authorities**

#### Article 19. Advisory bodies

Advisory bodies with representatives of national minority organisations shall be set up within local authorities; their operating procedures and powers shall be determined by the Cabinet of Ministers of Ukraine.

Local authority decisions which affect national minorities shall be agreed with these advisory bodies, particularly where such decisions relate to building on historical sites, the protection of historical and cultural monuments of national minorities, education and the organisation of cultural events.

Local authorities shall draw up regional development programmes, taking into consideration the needs of national minorities.

#### Article 20. Use of languages of national minorities in the business of local authorities

The business of local authorities, public associations and also of companies, institutions and organisations located in areas where the majority of the population is of a distinct national minority, may be conducted in the minority language alongside Ukrainian.

By decision of the local authorities, the regulatory instruments of local authorities may be published in the languages of national minorities, provided that these decisions are adopted in the Ukrainian language. In the event of disputes concerning the application and interpretation of these decisions the Ukrainian language shall prevail.

The laws of Ukraine, decrees of the Cabinet of Ministers of Ukraine and regulatory instruments of the executive may be published in the languages of national minorities if such publication is feasible in economic terms and justified by the interests of a sufficient number of persons from national minorities. Such decisions shall be taken by local authorities on the basis of proposals from national minority associations.

Officials and other staff of local authorities may communicate in the languages of national minorities when receiving members of the public who belong to national minorities. This provision shall apply to officials and other staff who are fluent in the relevant national minority language. Written replies to enquiries from persons from national minorities and national minority organisations shall be made in the Ukrainian language and, if necessary and if the appropriate technical means are available, in the languages of national minorities.

#### Article 21. Use of national names

Local authorities shall decide independently on the use of names of streets, squares and towns and villages in a national minority language. Names must also be given in the Ukrainian language.

### **Section V. Media**

#### Article 22. Information on national minorities

Persons from national minorities shall be entitled to receive, exchange and disseminate information in their mother tongue and/or other information regarding the history and culture of national minorities.

The state shall provide clarification of issues which affect national minorities in the state print media.

#### Article 23. Creation of media outlets

The state shall promote the creation of media outlets using languages of national minorities and the training of journalists and other specialists for media outlets which use languages of national minorities.



Local authorities shall act as initiators in creating radio and television broadcasts, newspapers and periodicals which provide information about the activities of national minorities.

Article 24. Re-transmission of broadcasts from neighbouring countries

The state shall guarantee the freedom to receive radio and television broadcasts from neighbouring countries which broadcast in the language of a national minority or in a language similar to it and shall not interfere with the re-transmission of radio and television broadcasts in such language from neighbouring countries.

**Section VI. Development of the culture of national minorities**

Article 25. Guarantees in the field of culture

The state shall guarantee all national minorities the right to national and cultural autonomy, to found cultural associations and centres, to develop national cultural traditions, to employ national symbols, to celebrate traditional national festivals, to profess their own religion, to satisfy their needs in literature and art, to create national cultural and religious institutions and to conduct any cultural activity that is not contrary to the laws of Ukraine in force.

Article 26. The publication of works in minority languages

The state shall assist and encourage the publication of works in minority languages to an extent that satisfies the needs of educational institutions, libraries, cultural centres and theatres, and shall provide funding for the relevant measures based on proposals from the authorised executive body for national minority issues, local authorities and national minority associations.

Funding for these measures from the state budget of Ukraine shall be provided in accordance with the laws of Ukraine.

Article 27. Development of national traditions

The state shall promote the protection and development of the cultural traditions of national minorities, the introduction of measures which promote folk art, festivals, concerts, exhibitions and the organisation of scientific and research expeditions for the study of folklore.

Article 28. Traditional national festivals

The state shall promote the celebration of traditional national and/or religious festivals of national minorities. In the conduct of their business, local authorities shall take into consideration the celebration of certain festivals and national minority events in areas of compact residence of persons from national minorities.

Additional leave may be stipulated for persons from national minorities for the celebration of traditional national and/or religious festivals; these must be reflected in the relevant collective agreements between the administrations of companies (organisations etc.) or in employment contracts with the relevant workers, at their request.

#### Article 29. Cultural and educational institutions

The state shall promote the creation of cultural and educational institutions, whose activities are geared to the study of the languages, history, culture and traditions of national minorities and shall promote the development of these institutions' international cultural links.

#### Article 30. Historical and cultural monuments

The state shall provide protection and security for the historical and cultural monuments of national minorities on the territory of Ukraine.

Local authorities shall take measures aimed at the reconstruction or restoration and protection of cultural monuments located on the territory of the citizens concerned.

#### Article 31. Development of traditional national craft industries

The state shall promote entrepreneurial initiatives aimed at developing the traditional craft industries of national minorities.

Vocational programmes with or without teaching in minority languages may be introduced in order to develop national craft industries in vocational technical colleges (higher education establishments etc.), if specialists in the relevant subject are available in an area of compact residence of persons from national minorities.

On the basis of proposals from local authorities, the Cabinet of Ministers of Ukraine shall approve programmes for developing traditional craft industries.

### **Section VII. State regulation in the field of national minorities**

#### Article 32. Authorised executive body

State policy in the field of national minorities shall be implemented by a central authorised body of the executive. Corresponding structures shall be set up in the Council of Ministers of the Autonomous Republic of Crimea and local executive bodies.

In particular the central executive authority shall perform the following functions:

- preparing and implementing the main aspects of state policy in terms of the development of national minorities;
- co-ordinating the activities of other central and local executive bodies and local authorities involved in co-operation with national minorities;
- preparing long-term economic, social and cultural development programmes for national minorities;
- expanding relations with national minority organisations;
- conducting international co-operation with other countries and international organisations on national minority issues;
- drawing up draft legislation and other regulatory legal instruments which govern relations in the field of national minorities.

An advisory body made up of representatives of national minority organisations may be set up within the authorised executive body.

#### Article 33. Representation of national minority interests

Persons from national minorities shall have the right to take part in the management of state and public affairs and to represent the interests of national minorities in state bodies and local authorities.

#### Article 34. Planning activities in the field of national minorities

The Cabinet of Ministers of Ukraine shall approve economic, social and cultural development programmes for territories of compact residence of persons from national minorities in Ukraine based on proposals from local authorities and national minority organisations in areas of compact residence.

#### Article 31 [sic]. Funding for measures for which provision is made under this Act

Special provision shall be made in the state budget of Ukraine for the development of national minorities and for measures provided by this Act.

#### Article 36. Ownership and property rights of national and cultural autonomies

National and cultural autonomies may own the property and funds required to perform their statutory function. Funds and other property transferred to national and cultural autonomies by their founders, participants (members) or the state, membership contributions, donations and charity donations by individuals, companies, institutions and organisations as well as property acquired at their own expense, may be used by national and cultural autonomies for the purposes specified in their statutes, the laws of Ukraine and this Act.

National and cultural autonomies shall have the right to property and funds held by state autonomous funding organisations set up by [the autonomies] and by companies as a result of their commercial activities and other activities not prohibited by the law of Ukraine.

Natural persons and legal entities which give part of their profits, savings or assets for the social and cultural needs of national and cultural autonomies, shall enjoy tax benefits under the laws of Ukraine.

Organisations created by national and cultural autonomies which exist solely on membership fees and voluntary donations, shall be exempt from taxes and other payments to the budget and special funds.

#### Article 37. Basic principles governing the funding of national and cultural autonomies

Funding for activities connected with the exercise of the right to national cultural autonomy shall come from:

- the state budget of Ukraine and local budgets;
- from the national and cultural autonomies themselves, their organisations, institutions and establishments as well as from private individuals.

International, All-Ukrainian and local funds may be set up for this purpose. Funds shall be granted to national and cultural autonomies to finance socially significant national and cultural development programmes, for measures in the field of culture, education and charitable purposes.

The receipt of funds from extra-budgetary sources shall not be grounds for stopping or reducing the scope of budgetary allocations intended for ethnic and cultural development as specified by the laws of Ukraine.

**Article 38. Financial and economic support mechanisms for national and cultural autonomies by the state and by local authorities**

In order to protect ethnic identity, develop ethnic cultures and minority languages, and ensure the ethnic, cultural and linguistic rights of citizens of Ukraine from national minorities, the executive authorities shall:

- set aside in the state budget funds for national cultural autonomy support grants;
- create special state and regional funds to promote national cultural development;
- provide benefits to national and cultural autonomies on tax, customs duty and other levies in accordance with the laws of Ukraine.

Matters relating to financial support for local national and cultural autonomies shall be decided by local authorities in accordance with the laws of Ukraine on local self-government.

**Article 39. Reservations on conditions for granting aid to national and cultural autonomies**

The granting of aid provided under Article 38 of this Act, to national and cultural autonomies shall be effected by the executive authorities, on condition that this aid is targeted and is used only for the measures specified.

The executive authorities, together with representatives of the national and cultural autonomies, shall select national cultural, educational and linguistic development programmes and projects for the purpose of funding by the state.

If it is established that state financial support is not being used for the targeted purpose the managers of the national and cultural autonomies concerned shall be liable under the laws of Ukraine.

**Section VIII. International co-operation and trans-border links**

**Article 40. Development of international co-operation**

The state shall promote the furtherance of co-operation with international organisations and other countries in guaranteeing and protecting the rights and interests of national minorities, in particular by entering into and implementing the international agreements of Ukraine in this field.

#### Article 41. International links of national minorities

The state shall promote the development of international links and trans-border co-operation between national minority organisations of Ukraine and international organisations and relevant public organisations in foreign countries.

Citizens from national minorities and national minority organisations shall have the right to maintain links with individuals of their own nationality and their public organisations beyond the borders of Ukraine and to take part in the activities of international non-governmental organisations.

National minority organisations may receive international technical aid and other types of aid in the manner defined in the current laws of Ukraine in order to meet the linguistic, cultural, educational, spiritual and other needs defined in this Act.

The state shall encourage the pursuit of international and inter-regional means whereby national minority organisations may promote the cultures and traditions of national minorities.

### **II. Final provisions**

1. This Act shall enter into force on the date of publication.
2. The Laws of Ukraine and other regulatory legal instruments of Ukraine adopted before this Act comes into force shall remain effective wheresoever they are not inconsistent with this Act.
3. When this Act comes into force, the Law of Ukraine “On national minorities in Ukraine” (No. 2494-XIII of 25th June 1992, VVR 1992, No. 36 p. 529) shall cease to apply.

4. The Cabinet of Ministers of Ukraine shall:

within six months of this Act coming into force

bring its regulatory legal instruments into conformity with this Act;

ensure that ministries and other central executive authorities bring their regulatory legal instruments into conformity with this Act.

**Head, Supreme Council of Ukraine**

**V. M. LYTVYN**