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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

FIRST DRAFT LAW

**AMENDING THE LAW
ON NATIONAL MINORITIES**

IN UKRAINE

LAW OF UKRAINE**Amending the Law of Ukraine
“On national minorities in Ukraine”**

The Supreme Council of Ukraine decrees:

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

LAW OF UKRAINE**On national minorities**

This Act establishes the legal basis for the inter-relationship of state and national minorities, the concept of a national minority, of national and cultural autonomy, regulates the relations that flow from citizens of Ukraine exercising the rights and freedoms linked to their belonging to national minorities.

Article 1. Citizens of Ukraine who are not Ukrainian by nationality, who reside on its territory, whose number is less than the number of Ukrainians, who differ in language, culture, customs and religion, and who manifest a feeling of national self-awareness and community and a desire to preserve and develop their ethnic and cultural distinctiveness [\[shall be deemed to belong to a national minority\]](#).

Article 2. The relations that flow from exercising the rights and freedoms linked to belonging to a national minority are governed by the Constitution of Ukraine, this Act, other regulatory legal instruments and by the international agreements of Ukraine [whose binding nature has been accepted](#) by the Supreme Council of Ukraine.

Article 3. The state guarantees individuals who belong to national minorities the right to equality before the law and to equal protection under the law.

Any discrimination on grounds of belonging to a national minority and acts directed at encouraging inter-ethnic, racial and religious hatred are prohibited and punishable by law.

Article 4. Citizens of Ukraine who belong to national minorities have a right to be elected or appointed to any post in legislative, executive and judicial bodies, in local authorities, in the armed forces of Ukraine, and in companies, institutions and organisations.

Article 5. In places where the majority of the population is of a distinct national minority the state guarantees its right to the conservation of its traditional environment (the natural landscape, historical monuments and so on). Changes to the traditional environment in places where the majority of the population is a distinct national minority will only be made with the consent of the majority of citizens belonging to it.

Changes in the administrative and territorial structure which affect the ethnic and demographic structure in regions are prohibited.

Article 6. Every citizen of Ukraine who belongs to a national minority shall have the right to a national surname, first name and patronymic and to [\[renew/resume/restore\]](#) them in the established manner. Where there is a desire to adhere to national traditions by which the patronymic form is not used a citizen shall have the right to indicate in their passport the surname and first name only, and to show the surname and the name of their child, father and mother in the birth certificate.

Article 7. Citizens of Ukraine who belong to national minorities are free to choose the range and forms in which they exercise the rights granted to them by law.

The participation of an individual who belongs to a national minority in the activities of a national minority public organisation or a refusal to take part in such activities may not be grounds for restricting their rights and freedoms.

Article 8. In traditional places of residence of persons who belong to national minorities or in places where they form the larger part of the population, the local executive bodies and local authorities shall, when exercising their powers, use the language of the respective nationality alongside the state language as stipulated by law.

Article 9. Citizens of Ukraine who belong to national minorities and their public organisations shall have the right as stipulated to establish and maintain free contact with persons and public organisations in Ukraine and abroad, in particular with persons of their own nationality and their public associations, to obtain from them assistance in satisfying their linguistic, cultural, spiritual needs, and to take part in the activities of non-governmental organisations both on a national and international level.

Article 10. The state shall create for citizens who belong to national minorities the conditions for realising the rights of national minorities to study in their mother tongue or learn their mother tongue in state and community educational establishments or through national cultural associations.

Article 11. Training of workers in cultural, educational and other departments will take place in state and community educational establishments, taking into consideration the needs of national minorities.

The executive bodies and local authorities shall promote national minorities by training specialists from among their number in other countries based on the requirements for specialists.

Article 12. The executive bodies and local authorities shall promote the activities of national minority public organisations; such activities shall be conducted in accordance with the laws of Ukraine.

Article 13. National and cultural autonomy is a right granted by the state to national minorities so that they may independently resolve issues relating to the preservation of national identity, development of the language, organisation of education and various forms of cultural life in accordance with the Constitution of Ukraine and with this and other laws of Ukraine.

The right to national and cultural autonomy shall not be a right to national and territorial self-determination.

Article 14. National and cultural autonomy is founded on the principles of: the free expression of individuals **in associating themselves with** [in tracing their origins to] a defined ethnic community;

self-organisation and self-government.

Article 15. The state guarantees all citizens of Ukraine who belong to national minorities the right to national and cultural autonomy: to use and study in the mother tongue or teach the mother tongue in state and community educational establishments or through national and cultural associations, to develop national and cultural traditions, to use national symbols (flags, emblems, marks, colours etc), to celebrate national festivals, to profess their religion, to satisfy the demand for scientific, artistic, craft and other works, and the media, to establish national cultural and educational establishments and to conduct any activity which is not contrary to the law.

Article 16. Citizens of Ukraine who belong to national minorities and their public organisations shall have the right to promote their national culture, language, customs and traditions in the media, including the mother tongue, to found media and publish scientific, artistic and other works in the languages of the national minorities.

Article 17. The state guarantees the preservation of items of cultural heritage of the national minorities of Ukraine.

Article 18. Advisory and consultative bodies with representatives of national minority public organisations who delegate them may be established and operate in local executive bodies and local authorities.

Participation in the formation and implementation of state policy in the field of international relations is done by a central executive body with special powers. The corresponding structural departments operate as part of the Council of Ministers of the Crimean Autonomous Republic, of the regional and Kyiv and Sevastopol urban administrations.

The Council of Representatives of the All-Ukrainian Public Organisations of National Minorities operates as an advisory body in the central executive body with special powers.

Article 19. Expenditure on the development of national minorities comes from the State Budget of Ukraine, from local budgets and other sources.

Article 20. Ukraine promotes the development of international co-operation to ensure the protection of the rights and interests of national minorities, in particular by entering into and implementing international agreements in this field.”

EXPLANATORY NOTE
on the draft Law of Ukraine “On national
minorities in Ukraine” (new version)

1. Reasons for adopting the act.

The draft Law of Ukraine “On national minorities in Ukraine” (new version) has been drawn up by the Ukrainian State Committee on Nationalities and Migration in execution of Cabinet of Ministers of Ukraine Decree No. 100 of 20 January 2003 “On approval of the schedule for draft legislation for 2003”. Experience amassed in the practical application of the existing Law of Ukraine “On ethnic minorities in Ukraine”, in force since 25 June 1992, the adoption of the Constitution of Ukraine, in force since 28 June 1996, and the ratification by Ukraine of international agreements applying to the protection of the rights of national minorities, has shown the need to make essential changes to the Act to bring it into conformity with the Constitution, the relevant international documents ratified by Ukraine and the law of Ukraine in force.

2. Aims and purpose of the Act.

This draft Law of Ukraine is a political and legal document which will ensure the protection of the rights and the realisation of the interests of national minorities, and will take into consideration their basic social and political requirements and needs. The draft law is aimed at the free development of all ethnic communities in Ukraine, at creating the proper conditions for the realisation of their cultural, educational, information and other needs, for harmonious interaction, and for maintaining an atmosphere of tolerance, trust and respect in the mutual relations between them.

3. General characteristics and main provisions of the draft law.

The object of the legal regulation of the proposed draft legislation is inter-ethnic relations, the guaranteeing of the rights and needs of national minorities and the eradication of factors of inter-ethnic tension and conflict. The draft legislation gives a precise definition of the concept of “national minority”, “national and cultural autonomy” and defines the basic principles on which national and cultural autonomy is founded. Provision is made for appropriations for the development of national minorities in the state budget of Ukraine, in the local budgets of the Autonomous Republic of Crimea, the regions and of the cities of Kyiv and Sevastopol.

4. The status of the regulatory legal base in terms of legal regulation.

The following are the regulatory acts in force in the field of inter-ethnic relations: the Constitution of Ukraine, the Framework Convention for the Protection of National Minorities, the Declaration of Rights of Nationalities of Ukraine, Laws of Ukraine “On national minorities of Ukraine”, “On citizenship”, “On education”, “On languages in the Ukrainian SSR”, “On the print media (the press) in Ukraine”, “On local self government in Ukraine”, “On the election of peoples’ deputies of Ukraine”, “On freedom of conscience and religion of organisations”, “On associations of citizens”. The relevant provisions are to be found in the Principles of legislation on culture. The adoption of the Law of Ukraine will require important amendments and supplements to the law of Ukraine in force.

5. Financial and economic grounds

Adoption of the draft bill will not require additional financial expenditure.

6. Forecast of the social, economic and other consequences of adopting the act.

Adoption of the Law of Ukraine “On national minorities in Ukraine” (new version) will have positive political and legal consequences for Ukraine, will show the logic of its policy regarding national minorities and will be a further step in improving the law in the ethnic and national field.