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THE IMPLEMENTATION OF THE VENICE COMMISSION RECOMMENDATIONS ON THE PROVISION OF THE MINORITIES LANGUAGE RIGHTS IN THE UKRAINIAN LEGISLATION

Ivan TORONCHUK¹, Volodymyr MARKOVSKIY²

Abstract

The publication examines the problems related to the implementation in Ukraine of the recommendations of the European Commission "For democracy through Law" (hereinafter the Venice Commission) contained in the Conclusion (Opinion No. 902/2017) on the provisions of the Law of Ukraine "On Education" dated 5 September 2017 concerning the use of the state language and minority languages as well as other languages in education (adopted by the Venice Commission at its 113th plenary meeting on 8-9 December 2017).

The steps taken by the government of Ukraine to implement these recommendations are highlighted. The main factors that will further influence the implementation of the recommendations of the Venice Commission in Ukraine, in particular such as the decision of the Constitutional Court of Ukraine are analyzed.

The analysis is made for the draft laws that may become part of the language legislation of Ukraine in connection with the loss of the validity of the Law of Ukraine "On the Principles of the State Language Policy" in 2012 in accordance with the decision of the Constitutional Court of Ukraine dated 22 February 2018 No. 2-p / 2018 supported by the Venice Commission, formulating its legal positions and recommendations for Ukraine.

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Keywords:

Venice Commission, language rights, teaching in native language, learning of native language, languages of national minorities.

Introduction

The study of the materials contained in Opinion of the Venice Commission on the provisions of the Law of Ukraine "On Education" of 5 September 2017, pertaining to the use of the state language and minority languages as well as other languages in education (hereinafter the Venice Commission's Opinion of 11 December 2017 No. 902/2017) [1] is of practical and theoretical significance for Ukrainian legislators, first of all, in view of the need for the legislative implementation of the recommendations of this Venice Commission's Opinion. These are the intentions that were stated by the Government of Ukraine in the preamble of the Roadmap on the implementation of Article 7 "Language of Education" of the Law of Ukraine "On education" (hereinafter the Roadmap) [2].

Theoretical Background

Most of the scientific publications contained in the Ukrainian legal professional publications state the conformity of the provisions of Article 7 "Language of Education" of the Law of Ukraine "On Education" [3] (hereinafter the Education Law) to the Constitution of Ukraine and the requirements of international legal acts in the sphere of protection of the rights of national minorities for education in their native language [4-7]. This is in line with the Official position of the government of Ukraine regarding Article 7 of the Education Law dated 27 October 2017 [8] and the provisions of the Roadmap [2]. Thus, the overwhelming majority of Ukrainian lawyers are convinced of the possibility of implementing the recommendations of the Venice Commission in Ukrainian legislation without radical changes in the text of the current edition of Article 7 of the Education Law.

There is also an opposite view on this issue. On 6 October 2017, the Constitutional Court of Ukraine received a *constitutional petition* of 48 people's deputies of Ukraine regarding the compliance of the Constitution of Ukraine (constitutionality) with the Education Law of 5 September 2017, No. 2145-VIII [9]. The subject of the law to the constitutional petition considers that the Education Law does not comply with Articles 8, 10, 11, 22, 24, 53 of the Constitution of Ukraine [10], in particular, violates the rights of national minorities to study in their native language and introduces unjustified

privileges (*in the constitutional petition - "discriminatory advantages (privileges)"* for the indigenous people of Ukraine (the Crimean Tatars living in Ukraine). Their point of view is supported by such scholars as Tovt M. and Chernychko M. [11].

In April 2018, the Collegium of Judges of the Constitutional Court of Ukraine opened the constitutional proceeding in the case on the submission of 48 people's deputies on the compliance of the Constitution of Ukraine (constitutionality) with the Education Law of 5 September 2017 [9]. However, the date of the hearing of this case in the Constitutional Court of Ukraine (hereinafter the CCU) at the moment has not yet been appointed.

Indeed, there is much criticism and accusations of various politicians between the adoption of the new Education Law of September 2017 and the beginning of 2018 (both in Ukraine and the EU) regarding Article 7 "Language of Education" of this Law. The essence of this critique is that Article 7 of the Education Law limits the volume of minority linguistic rights, in particular, violates the right of national minorities to education in their native language. According to the opponents' opinion of the Ukrainian Education Law this is due to the introduction of the state language into schools, where the educational process was previously held exclusively in minority languages, while the Ukrainian language was studied only as a subject.

On 10 October 2017, the discussion on Article 7 "Language of Education" of the Education Law was held in the Parliamentary Assembly of the Council of Europe (hereinafter – PACE). The discussion on this issue is entitled: "The new Ukrainian Education Law is the major impediment to the teaching of national minorities' mother tongues" [12]. Therefore, the PACE Resolution No. 2189 (2017) recommended Ukraine to send the specified Education Law, more precisely Article 7 "Language of Education," and some of its transitional provisions for the examination of the Venice Commission. It was done.

The Venice Commission's Opinion of 11 December 2017 No. 902/2017 also contained rather critical reservations regarding Article 7 of the Education Law, including: the "uncertainty of Article 7 of the Education Law" (points 55-60); the observance of non-compliance with the international obligations of Ukraine with regard to protection the language rights of national minorities (points 63-65); the reduction of the existing level of protection (points 86-95) and non-compliance with the principle of non-discrimination of these minorities (points 106-115) [1].

However, the criticism of Article 7 "Language of Education" of the Education Law by these respectable European institutions in some cases seems to be biased, moreover, sometimes even unreasonable that will be discussed further.

In this political-legal discourse the legal positions expressed in the decision of the Constitutional Court in the case on the petition of 57 people's deputies of Ukraine regarding the compliance of the Constitution of Ukraine (constitutionality) with the Law of Ukraine "On the Principles of the State Language Policy" dated 28 February 2018 No. 2-p/2018 (hereinafter the decision of the CCU of 28 February 2018 No. 2-p/2018) [13] should be decisive. It was on the basis of the Law "On the Principles of the State Language Policy" [14], which was declared unconstitutional on 28 February 2018, the language relations in Ukraine were formed in the period from 2012 to 2018 ³.

3. Argument of the paper

It is very important that the experts who prepared the Venice Commission's Opinion of 11 December 2017 No. 902/2017 formulated their legal positions precisely on the basis of the Law of Ukraine "On the Principles of the State Language Policy" of 2012 [14]. Although the decision of the CCU was chronologically later (28 February 2018) than the Venice Commission's Opinion of 11 December 2017 No. 902/2017, the experts of this institution knew that the constitutional proceeding on the Law of Ukraine "On the Principles of State Language Policy" of 2012, opened in 2014, was already on final stage (the specified is indicated in point 24 of the Venice Commission's Opinion No. 902/2017 of 11 December 2018).

In our opinion, the above-mentioned somewhat weakens the legal positions set out in the Venice Commission's Opinion No. 902/2017 [1]. The reason for this is that the legislative act (the basic law on language relations at that time), which formed the legal positions of the V C Opinion

³ It should be clarified that on 23 Feb 2014, the Verkhovna Rada of Ukraine adopted a bill "On the recognition of the invalidity of the Law of Ukraine" On the Principles of State Language Policy ". However, the law was vetoed at that time by the Acting President of Ukraine Turchynov O.V. as if to develop a new bill, but in fact because of the fear of Russia's aggression, which began an information attack on this issue that preceded Russia's aggression against Ukraine. So on 08 Oct 2014, according to the Decree of the Constitutional Court, a constitutional proceeding was opened on the constitutional petition of 57 people's deputies of Ukraine regarding non-compliance of the Constitution of Ukraine (unconstitutionality) with the Law of Ukraine "On the Principles of the State Language Policy".

No. 902/2017, was declared unconstitutional on the basis of the decision of the CCU on 28 February 2018 No. 2-p/2018.

As of March 1, 2018, Ukrainian language legislation is on the verge of a significant update due to the long-awaited decision of the CCU of 28 February 2018 [13]. In Ukraine, the generally binding decisions of the CCU oblige the authorities that issued the normative act to begin the procedure for the adoption of a new act within a certain time [15]. From this moment and before the adoption of a new legislative act in the field of language relations in Ukraine, the provisions of the Constitution of Ukraine and the decisions of the Constitutional Court concerning *the legal regulation* of the use of languages in the field of education are of particular importance. In addition to the decision of the CCU No. 2 dated 28 February 2018, there were two other decisions of the CCU, namely: the Decision of the Constitutional Court of Ukraine of 14 December 1999 No. 10-rp /99 in the case concerning the use of the Ukrainian language by public authorities, local self-government bodies and its use in the teaching process in educational institutions of Ukraine (hereinafter the decision of the Constitutional Court of Ukraine of December 14 1999 No. 10-rp 99) [16] and the Decision of the Constitutional Court of Ukraine in the case of the constitutional petition of 52 people's deputies of Ukraine on the compliance of the Constitution of Ukraine (constitutionality) of the Resolution of the Cabinet of Ministers of Ukraine "On Amendments to the Provision on a general educational institution" dated 2 February 2010 No. 4-rp /2010 of the Constitution of Ukraine (constitutionality) [17]. These decisions and legal positions of the Constitutional Court, laid out in their motive parts, are of a prejudicial significance for Ukrainian legislators, and they will serve us as arguments. Both decisions clearly indicate that the language of minorities can be used only along with the state language, and not instead of it.

4. Argument to support the thesis

It is necessary to take into account the fact that the Law of Ukraine "On the Principles of State Language Policy" is considered unconstitutional not through its separate provisions or articles, but in general. While hearing the case in the CCU, some falsifications were discovered, which consisted in massive non-personal voting of people's deputies of Ukraine for this Law. This was the reason for having a doubt on both the legitimacy of the legislative process at the time of its adoption, and the legitimacy of the legislative act itself. That is, such a law entered into force contrary to the constitutional procedure for the adoption of laws, which violated the

constitutional principle of the personal vote of people's deputies of Ukraine [13].

As a result, legal relationships that arose on its basis should not have legal consequences. This refers to the legal regime of languages in the field of education established by the provisions of Article 20 "Language of Education" of the unconstitutional Law of Ukraine "On the Principles of the State Language Policy" of 2012 [14]. Just this Law (recognized as unconstitutional) provided such significant preferences to the Russian national minority as well as some other minorities creating disparities and imbalances in the field of linguistic relations. It was precisely this law that became the basis for suppressing the state language from the educational process in schools where Ukrainian citizens, children of representatives of national minorities, study⁴. It should be noted that among 18 expert assessments submitted by higher educational institutions and other involved experts, there was an agreement on the need to recognize the act as unconstitutional. At the same time, there is no expert assessment where professionals would support the validity of this Law [18]. Obviously, the legal conflict that arose between the legal requirements of the Law of Ukraine "On the Principles of State Language Policy" (Article 20 "Language of Education") [14] and the Education Law (Article 7 "Language of Education") [3] had to be resolved by the constitutional jurisdiction body [13].

5. Argument to argue the thesis

The main argument of the Venice Commission's criticism (*reservations*) (Opinion No. 902/2017) is that Article 7 "The language of education" of the Education Law modifies the "previous" legal regime of languages in schools for national minorities. According to the experts, this will lead to the reduction of the legal capacity of persons belonging to national minorities to learn native languages that will cause *disproportionate interference* with existing minority rights (point 120 of the Conclusion and points 83, 87 of the Venice Commission's opinion) [1].

⁴ This legislative act was adopted in 2012 on the initiative of ex-president Yanukovich and such political forces as the Party of Regions, the Communist Party and non-factional deputies, in violation of the constitutional procedure for the consideration and adoption of the Law. As a reminder, some of these political parties are now under investigation (like ex-president Yanukovich), or have fled to Russia and are already working against Ukraine in favor of an aggressor (Russia). So the answer to the question becomes clear: Cui prodest? Who and for what purpose was initiated the adoption of an unconstitutional act.

When it comes to the "previous" legal regime of languages in schools for national minorities, we must understand that it is a question of schools where the educational process is conducted in the languages of these minorities, while the state language is studied only as a discipline (see paragraphs 26 and 27 of the Venice Commission's opinion). It was the legal norms of the Law of Ukraine "On the Principles of the State Language Policy" of 2012 that resulted in the formation of such legal regime which, in the end, was declared unconstitutional in 28 February 2018.

The above has led to a certain segregation of the younger generation of Hungarians and Romanians of Ukraine (see points 71 and 72 of the Venice Commission's opinion), which do not have the ability to fully integrate into Ukrainian society due to the lack of knowledge of the state language. This is precisely the violation of their rights to education and contradicts the main provisions of Huage recommendations as to national minority rights to education [19]. This fact is indicated in the Venice Commission's Opinion of 11 December 2018 No. 902/2017 (see points 71 and 72 of the Venice Commission's Opinion), as well as in the Official position of the government of Ukraine [8].

Nevertheless, the experts of the Venice Commission, with a view to "ensuring a fair balance", as one of the options, suggest that the minority schools with the learning process in their native language and Ukrainian studied only as a subject, "should continue to exist in the traditional way (point 102 of the Opinion of the Venice Commission). Moreover, despite the existence of segregation (see points 71 and 72 of the Venice Commission's Opinion), experts of Venice Commission that involved in the preparation of the above-mentioned conclusion in order to improve the situation with a lack of knowledge of the state language among some national minorities, offer only to increase the number of hours for studying the Ukrainian language and improve the methodology for studying the state language (see point 98) [1]. In order to "protect" the language rights of national minorities, the Ukrainian state is invited to avoid "excessive reduction" of the level of teaching in the languages of national minorities. The experts from the Venice Commission believe that an increase in the volume of the educational process that takes place in the state language will lead to "lowering the existing level of protection" (point 86-95 of the Venice Commission's Opinion) [1]. But then the question arises: in what way will the state language be protected if the current academic process is performed on 95% in the language of national minorities?

6. Dismantling the arguments against

As a result of the detailed analysis of the legal positions set out in the Venice Commission's Opinion of 11 December 2017 No. 902/2017 there is a strong impression of the willingness of the Venice Commission's experts to resort to an experiment rather than to the established practice of most of unitary states of the EU where the state language is the language of the educational process, and minority languages are studied selectively. Paradoxically, but the mentioned fact is stated in the PACE Resolution: "The new Ukrainian Education Law is the main impediment to the teaching of national minorities' mother tongues". Paragraph 12 of this Resolution points out: "The Assembly is aware that Ukrainian-speaking minorities in neighboring countries do not have the right to monolingual education in their native languages and do not benefit from agreements aimed at encouraging bilingual education. Therefore, the Assembly recommends that the authorities of neighboring countries who legitimately call for the protection of their minorities, should offer Ukrainian population living in relative countries similar agreements for the protection of their own minorities" [12]. There is a certain *inconsistency* here: Ukraine must assume the maximum amount of obligations with regard to national minorities, although the lack of parity on this issue is obvious to everyone.

The legal positions of Venice Commission's experts contained in the Venice Commission's Opinion of 11 December 2017 No. 902/2017 will be more inconsistent if its comparative analysis with the conclusions of the Venice Commission made in 2011 is carried out. It needs to be clarified that, in addition to the stated Conclusion, the Venice Commission has twice studied Ukrainian draft laws in the field of language relations, namely:

- "Conclusion on the Draft Law on Languages in Ukraine" adopted by the Venice Commission at the 86th plenary meeting (Venice, March 25-26, 2011) (CDL-AD (2011) 008) [20];

- "Conclusion on the Draft Law on the Principles of the State Language Policy of Ukraine" adopted by the Venice Commission at the 89th Plenary Session (Venice, December 16-17, 2011) (CDL-AD (2011) 051) [21].

Both Conclusions of the Venice Commission dated 2011 are linked by the fact that the Draft Law No. 9073 of August 26, 2011 "On the Principles of the State Language Policy" - adopted by the Parliament on 3 July 2012 as a law [14] - was developed on the basis of the draft law of August 2010 No. 1015-3 "On Languages in Ukraine" [22]. Both Venice Commission's conclusions indicated to the lack of balance between the draft laws.

On March 30, 2011 there was the Venice Commission's Opinion which analyzed the draft law "On Languages in Ukraine" (No. 1015-3) – the Conclusion of the Venice Commission No. 605/2010 under the title "Opinion on a Draft Law on Languages in Ukraine" adopted by the Venice Commission at the 86th plenary meeting (Venice, 25-26, March 2011) (CDL-AD (2011) 008) [20]. Having examined the draft law, the Venice Commission concluded that it was imbalanced. It was stated that the provisions of the draft law "On Languages in Ukraine" disproportionately strengthen the position of the Russian language. According to the Venice Commission, this could intensify the existing linguistic differences in Ukraine, and not reduce them. With this draft law, an attempt was made to affirm the dominance of the Russian language in Ukraine. Consequently, the experts of the Venice Commissions concluded that the indicated does not correspond to Article 10 of the Constitution of Ukraine [20].

This is in line with the assessment of the OSCE High Commissioner for National Minorities concerning the draft law "On Languages in Ukraine" No 1015-3. The OSCE High Commissioner for National Minorities characterizes the shortcomings of the draft law as such that create an imbalance in the use of the state language and minority languages in the field of education: "The draft law is likely to lead to a predominantly monolingual education system in schools where minority languages are taught, which is unlikely to provide adequate opportunities for minority children to develop their skills in the state language. It is doubtful that the lessons only in Ukrainian language and literature will provide such opportunities, in particular in the region and environments in which the minority language is dominant and there is little incentive to study and use the official language in the field of employment or access to higher education. Finally, such an approach contradicts the object and purpose of both the Framework Convention on the Protection of National Minorities and the European Charter for Regional or Minority Languages." [23].

The Venice Commission's Opinion of 19 December 2011 No. 651/201 entitled "An Opinion related to the Draft Law on the Principles of State Language Policy of Ukraine" also states that this document needs to be completed through its insufficient balance concerning the protection of the state language and those of minorities [21]. It should be clarified here that Article 21 "Language of education" of the draft law "Languages of Ukraine" [22] almost entirely complied with Article 20 "Languages of Education" declared unconstitutional to the law of Ukraine "On the principles of the State Language Policy" of 2012 [14]. Just this law became

legislative basis for supplanting the state language from the sphere of education through actual introduction of monolingualism in minority schools.

Therefore, the decision of the CCU of February 28, 2018 on the unconstitutionality of the Law of Ukraine "On the Principles of State Language Policy" looks quite logical and justified, though somewhat belated. Instead, the legal regime of the languages, in particular in the field of education which is formed on the basis of the legal norms of the unconstitutional Law "On the Principles of State Language Policy" [13], appears to be not in line with the Constitution of Ukraine and contradicts it.

Consequently, the fundamental question arises as how to achieve a fair balance now if in the past in some schools of national minorities the educational process actually took place only in minority languages. We believe that the volume of the use of the state language in the educational process of Ukrainian schools with representatives of national minorities or indigenous people cannot be less than 50%. Thus, the other 50% of the educational process will be the training of the language of one or another minority, that is, it goes about the bilingual system of education in Ukraine.

The above follows from the official interpretation of Article 10 of the Constitution of Ukraine in the Decision of the Constitutional Court dated 14 December 1999, No. 10-rp/99. The section 2 of the resolute part of this decision of the Constitutional Court of Ukraine states: "Based on the provisions of Article 10 of the Constitution of Ukraine and the laws of Ukraine on guaranteeing the use of languages in Ukraine in educational process, the language of instruction in pre-school, comprehensive secondary, vocational and higher state and the communal educational institutions of Ukraine is the Ukrainian language" [16].

Just this formula (construction) of the legal norm was used by the legislator in the first part of Article 7 of the Education Law: "The language of the teaching process at educational institutions is the state language" [3]. This legal norm of the law is just of fundamental value.

The sub-paragraph 2 in section 2 of the decision of the CCU of December 14, 1999 No. 10-rp / 99 states: "According to the provisions of the Constitution of Ukraine, in particular, Part 5, Article 53 and laws of Ukraine the languages of national minorities can be used and studied along with the state language in state and communal educational institutions" [16].

Consequently, the notions used in the formulation of Part 5, Article 53 of the Constitution of Ukraine, namely "*teaching in the native language*" and "*studying native language*" belong to the scope of the rights of national

minorities to education in their native language and legally establish bilingualism at schools with Ukrainian citizens, representatives of national minorities. This does not in any way mean the predominance of the minority language in the educational process over the state language. Just this decision of the Constitutional Court, may become the key to creating a fair balance in the use of the state language and minority languages in the educational process of the school in the amount of 50 to 50. This could well be an effective implementation of the provisions contained in Articles 10, 11 and 53 of the Constitution of Ukraine. The above is already officially interpreted in the Decision of the Constitutional Court of Ukraine of 14 December 1999 No. 10-rp / 99 [16].

In order to find a certain balance and implement the recommendations of the Venice Commission (Paragraph 2, point. 126) "to continue ensuring a sufficient proportion of education in minority languages at the primary and secondary levels, in addition to the teaching of the state languages", the government of Ukraine developed the bill "On Full General Secondary Education". The bill is proposed for public discussion and its content is published on the website of the Ministry of Education and Science of Ukraine [24]. At the moment, the bill is not yet officially registered on the Ukrainian Parliament's website.

The analysis of Article 5 of the draft law "Language of education at institutions of general secondary education" testifies to the efforts of the relevant Ministry to put into force two different approaches for the implementation of Article 7 "Language of Education" of the Education Law. The first approach consists in the legal regime of languages in the field of education, according to which the indigenous peoples of Ukraine and national minorities, whose languages are the official languages of the EU, actually preserve the preference of the mother tongue in the educational process at the primary and secondary level of secondary education (grades 1-9). At the same time, profile secondary education provides for a state standard supposing at least 80 per cent of the annual volume of the educational process in the state language (paragraph 1-3, part 7, Article 5 of the Draft Law)[24].

A slightly different approach is proposed for national minorities whose languages are not official in the EU and do not belong to indigenous people (Paragraph 4 of Part 7, Art. 5 of the draft law). This approach suggests that the volume of the use of the native language of the national minority at the initial level of secondary education should be no less than 80%, but starting from the 5th grade and till the end of training, the volume

of the educational process in the state language will already be 80%, and that in the native language is 20% [24].

All persons belonging to indigenous people or national minorities of Ukraine are guaranteed and ensured the right to study the language of the appropriate indigenous people or a national minority in communal and corporate institutions of general secondary education in accordance with Article 3 of the Draft Law [24].

The government of Ukraine proposes to fully implement the recommendation of the Venice Commission (Opinion No. 902/2017) concerning private schools (Paragraph 6, point 126 of the Opinion), exempting them from the requirement to implement the educational process in the state language. According to Article 11 of this bill, the following is stipulated: "Private educational institutions that provide full secondary education for the benefit of individuals and / or legal entities have the right to freely choose the language of the educational process (except those institutions receiving public funds) and are obliged to ensure the acquisition of their students in the state language in accordance with the requirements of state standards of general secondary education" [24].

In our opinion, the specified legal norm contradicts the already mentioned Decision of the Constitutional Court of Ukraine of 14 December 1999 No. 10-rp / 99. We should remind that the decision of the CCU clearly states that in the educational process, the languages of national minorities can be *used and studied* only along with the state language.

We will not go deep into the analysis of the bill that has not yet been registered in the Parliament, since the discussion about its legal requirements are ahead, but we hope that the officials will take the above into account.

The Parliament also recorded the government's draft law of Ukraine of 15 February 2018 No. 8046 "On amendments to paragraph 3 of Section XII "Concluding and Transitional Provisions" of the law of Ukraine "On Education" to clarify certain provisions" [25]. The purpose of the bill is to extend the transitional period for the full introduction of Article 7 of the Law of Ukraine on education" for children of national minorities. This is exactly the recommendation given to Ukraine by the European Commission in Paragraph 5, point 126 of the Opinion of 11 December 2017 as to the provisions of Article 7 of the Education Law regarding the use of the state language and minority languages as well as other languages in education. In accordance with this bill which is already registered by the Parliament, the transition period is extended from 2020 to 2023, which is in line with the terms provided by the Roadmap [2]. It is also encouraging that the

government timely (according to the Roadmap schedule) developed and passed a public education bill "On Full General Secondary Education" [25].

Conclusions. The Ukrainian state has its own vision of the prospects of solving the issue of the use of the state language and minority languages in the field of education in order to find a "fair balance" of this problem. Despite these difficulties, Ukraine began the process of implementation of Article 7 "Language of education" of the Education Law according to the recommendations contained in the Venice Commission's Opinion of 11 December 2018 No. 902 / 2017. The above is already embodied in a number of draft laws, which will surely be amended.

Consequently, we are skeptical of the efforts to stop the reform of education in Ukraine recognizing the Law on education of Ukraine, or Article 7 "Language of Education" of the mentioned legislative act to be unconstitutional, although the CCU opened the proceedings on this petition in April 2018. The authors of the publication will make every effort to leave unchanged the current wording of Article 7 "Education of the Language" of the Education Law.

Again, an important factor that will further influence the possibility of implementing the recommendations of the Venice Commission is the decision of the Constitutional Court of 1999 which is of prejudicial significance, in particular, the legal position of the Constitutional Court on the possibility of using minority languages in the educational process only in the state language, and not instead of it. The main thing for the Ukrainian authorities today is only to correctly formulate the specified balance (50% of the state language and 50% of the minority language in the secondary school educational process) with the implementation in the future of the Law of Ukraine "On Full General Secondary Education". The consideration of the Ukrainian legal authorities' legal positions of the CCU will help to avoid new legal conflicts or inconsistencies with the legal requirements of the Constitution of Ukraine.

The legal positions of the Venice Commission contain some contradictions expressed in the above Conclusions (in 2011- 2017), although they relate to one area of legal regulation of language relations, in particular, the question of finding a balance between the volume of minority language rights and the duties (requirements) regarding the use of the state language in the field of education. This reveals some inconsistency in the legal positions of the Venice Commission expressed in 2011 and 2017. In our opinion, this inconsistency somewhat weakens the legal positions contained in the Opinion of the Venice Commission of 11 December 2018, No.

902/2017. It also calls into question the possibility of applying the legal provisions set out in this Conclusion in other similar cases and will not promote legal certainty in cases concerning the legal regulation of linguistic relations.

The authors will gladly accept the criticism of specialists (lawyers) and examine examples of legislation of the unitary states of the EU (excepting the states with a federal system or confederations), in which the level of education in the state language is less than the amount of educational process provided in the native language of national minorities.

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