

***ADVISORY COMMITTEE ON THE  
FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES***

COUNCIL OF EUROPE



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**Comments of the Government of Ukraine on the Fourth Opinion of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine - received on 5 March 2018**

## COMMENTS

### on the Fourth Opinion on Ukraine of the Advisory Committee on the Framework Convention for the Protection of National Minorities

to p. 19.

#### ***The Ministry of Social Policy of Ukraine***

The Ministry of Social Policy of Ukraine has developed a draft Law of Ukraine "On amendments to article 7 of the Law of Ukraine «On the restoration of the rights of persons deported on national grounds » in order to ensure the proper realization of the rights of persons deported on national grounds for the return of the seized buildings and property as a result of the deportation or to receive compensation of their value.

According to part two of Article 7 of the Law of Ukraine "On the restoration of the rights of persons deported on national grounds", applications for compensation and returning of property should be submitted not later than three years from the date of the person had the status of the deported person. At the same time, due to the inability of state authorities to fully exercise their powers in the temporarily occupied territory of Ukraine and in the territory of conducting an antiterrorist operation, deportees cannot apply to the relevant bodies of these territories with a request within a specified period, which requires an extension of the period of appeal specified in part two of Article 7 of the Law, to the restoration of the constitutional order in the specified territories. This case is regulated in the draft Law which provides that a person who has acquired the status of a deposited person whose property has been seized as a result of deportation and is in a temporarily occupied territory of Ukraine or territory of an anti-terrorist operation has the right to submit an application for compensation and return of property not later than three years after full restoration of the constitutional order of Ukraine in the specified territories. The Draft Law was registered in the Verkhovna Rada of Ukraine as of March 23, 2013, No. 6228.

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#### ***The Transcarpathian Regional State Administration***

#### **The Rusyns**

The Transcarpathian Regional State Administration and its structural divisions, within the framework of the powers granted, support the ethno-cultural activities of the Rusyns in the framework of international agreement.

#### ***Civil society.***

According to the Law of Ukraine "On Citizens' Associations", 11 regional Rusyn NGOs have been legalized. Also two local Rusyns were registered.

#### ***Ensuring cultural rights.***

Rusyns' public organizations have the opportunity, as other public organizations of national minorities too, to carry out their statutory activities on a royalty-free basis on the basis of the Center of Cultures of National Minorities of Transcarpathia, whose activities are financed from the regional budget. Every year the regional festival of Rusyns' culture "Chervena Ruzha" is held for organizational and financial support of local authorities.

***Provision of linguistic rights.***

In 2005, on the oblast television airtime was allocated to cover the life of the Rusyns of the region, and since February 2008, on the basis of the Transcarpathian Regional State Television and Radio Broadcasting Company, the editorial office of the programs has been established and is functioning in the languages of national minorities. The weekly edition issues the program "Rusyns'ka Rodina" (Tuesdays and Saturdays). There is also a newspaper in the Rusyn language "Podkarpatsky Rusyn" and the magazine "Otthuzynna".

In accordance to the decision of the regional council (on December 21, 2012 № 652) "On the implementation of the norms of the Law of Ukraine "On the Principles of State Language Policy" it was noted that on some territories of separate administrative-territorial units of the region (villages, towns and cities), together with the Ukrainian, as State-wide language, are using Hungarian, Romanian and Rusyn, as regional languages.

***Financing the needs of national minorities***

In order to meet the needs of national minorities in the region, regional programs were implemented, in particular, the Program for the development of education, culture, traditions of the national minorities of the region for 2016-2020, the Program "The Center for the Cultures of National Minorities of Transcarpathia" for 2016-2020 and the Program "The Romas' Population of Transcarpathia on 2016-2020 years "(the estimated funding amounts UAH 8727.6 thousand). In addition, measures and expenditures for meeting the needs of national communities are an integral part of programs on culture, education, media support and socio-economic development of regions, districts and cities, densely populated by ethnic minorities.

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*The Ministry of Culture of Ukraine*

The Ministry of Culture of Ukraine is drafting the new version of the Law of Ukraine "On National Minorities in Ukraine". Now proposals of representatives of national minorities, scientific institutions and public organizations are being worked out, the normative base of other countries and the proposals of international human rights organizations are being studied too. The decree of the Ministry of Culture of Ukraine dated January 3, 2018 № 33 was established an interministerial working group on the issues of drafting legislation in the field of interethnic relations and protection of the rights of national minorities of Ukraine.

There were several meetings of the Expert Council of the Ministry of Culture of Ukraine on ethno politics issues took place. It has created two working groups that have developed a draft Law of Ukraine "On the Concept of Ethnic Policy of Ukraine".

On December 22, 2017 the Expert Council of the Ministry of Culture of Ukraine on Ethnic Policy issues held the visiting meeting in the Transcarpathian region, the main purpose of which was to discuss the draft Concept with the leaders of the public organizations of the national communities of Transcarpathian region and representatives of the Transcarpathian Regional State Administration and the Transcarpathian Regional Council. The leaders of Transcarpathian national community organizations expressed their comments and suggestions which will be taken into account during further work on the draft Concept.

Also, with the involvement of representatives of public institutions of national-cultural societies and organizations, representatives of executive power, leading experts on ethnopolitics issues, two bills were developed, which, in case of their adoption, would regulate the process of ensuring the rights of indigenous peoples in Ukraine. One of them is "On the Status of the Crimean Tatar People", has already been registered with the Verkhovna Rada of Ukraine (№ 635, 07.04.2017), the second, the framework, is "On Indigenous Peoples of Ukraine" is being prepared for registration.

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***The Ministry of Social Policy of Ukraine***

Now the number of internally displaced persons taken into account is 1 586 135 persons.

Also, at present time, in the settlements of Donetsk and Luhansk regions, as well as in the Autonomous Republic of Crimea and Sevastopol, which temporarily are not controlled by the Ukrainian authorities, the work of financial institutions, in particular banks, of the State Treasury, of the national postal operator, as well as work of organs of the pension fund of Ukraine is blocked.

In view of the above, it is impossible to make social payments, pay pensions on territories temporarily uncontrolled by the Ukrainian authorities. At the meeting of the National Council for Reforms it was made the decision to draft a separate bill in order to identify the peculiarities of pension provision for internally displaced persons and persons from the territory of Donetsk and Lugansk regions, which are temporarily uncontrolled by the state authorities of Ukraine, and Ukrainian citizens living in the Autonomous Republic of Crimea and the city of Sevastopol.

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***The Ministry of Social Policy of Ukraine***

The Resolution of the Cabinet of Ministers of Ukraine (05.04.2017 № 229) approved the Concept of the State Social Program for the Guarantee of Equal Rights and Opportunities for Women and Men for the period up to 2021, which improved the mechanism for the implementation of the right to protect from discrimination which based on sex, and from discrimination in more than one sign, one of which is a sign of gender, the consideration of cases of such discrimination and taking of appropriate measures on the results of proceedings.

Also, there is the Expert Council for Preventing and Combating Sexual Discrimination at the Ministry of Social Policy of Ukraine, members of which are representatives of central executive authorities, scientists, gender experts, members of public and international organizations, in particular the vice president of the charity organization Romani Women's Fund "Chirikli".

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***The Transcarpathian Regional State Administration***

**Roma**

***Education***

The Transcarpathian Regional State Administration, departments of education of districts state administrations and city executive committees, directories of educational institutions

systematically conducts informational and educational work aimed at counteracting bias towards students of the Roma national minority and explaining the importance of their education.

Students of Roma nationality more systematically attend the elementary school. In the middle and upper levels, there are frequent missing lessons. One of the reasons for a significant dropout of pupils in basic and high school is due to the reluctance of parents to teach their children. Therefore, an important aspect of the activities of teachers is the work with parents of students and their substitutes, to increase responsibility for the regular attendance of children by classes and the importance of their education. To provide the aforementioned teacher, they take various measures: conduct conversations with their parents and their substitutes; provide parents with psychological and pedagogical advice on the upbringing of children; together with employees of children's services and social services centers for families, children and youth, conduct raids-checking sanitary and hygienic conditions of residence of Romani families; work closely with law enforcement agencies and social services to attract students to study and attend school.

### ***Documentation***

In order to raise awareness of the persons, in particular, the representatives of the Roma community, with the rules of registration of identification documents and registration of their place of residence by the order of the head of the Regional State Administration dated March 13, 2017, № 113 was approved a plan of measures to improve the work on the provision of administrative services to ensure the receipt of documents certifying a person and confirm citizenship, birth certificates, as well as registration of the place of residence / stay of individuals.

Most Roma are unaware of their rights and responsibilities and are socially vulnerable, and one of the most effective factors in helping to provide Roma with documents, is to provide the Roma population with free legal assistance through appropriate centers for providing free legal assistance. The mentioned centers have established cooperation with Roma non-governmental organizations and charitable foundations, which greatly enhances the effectiveness of their work with Roma.

### ***Healthcare***

The problem with organizing outreach surveys among the adult Romani population is that they are reluctant to take a look at the Roma rites, in addition a fairly significant part of them constantly migrates. Medical workers are constantly providing explanatory, including medical and educational, work in places of compact residence of the Roma. Specialist social mediators (mediators) are assisting health workers in conducting educational and other work.

Provision of in-patient treatment is part of the general rules for providing such assistance to patients, regardless of their nationality. However, there are not surprising cases when Roma patients arbitrarily interrupt treatment and leave hospitals. This is especially true in anti-TB clinics, where treatment takes a long time.

In order to ensure the effectiveness of work on addressing Roma issues in the regional interdepartmental working group on the implementation of a plan of measures to implement in the area of the Strategy for protection and integration in the Ukrainian society of the Roma national minority for the period up to 2020 there are seven profile working subgroups: education, youth and sports; Health Care; culture and information activities; social protection and employment; infrastructure development; legal protection; development of civil society. In order to involve representatives of the Roma national minority in addressing the issues of the Roma community and

their integration, these subgroups are headed by representatives of the Roma community, and local authorities provide comprehensive assistance and support of integration processes.

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*The Ministry of Justice of Ukraine*

*(issuance of documents that certify a person to representatives of Roma nationality)*

The legislation of Ukraine fully provides the right of a person to state registration of the birth regardless of the legal status of the parents, ethnicity and social origin. According to part 3 of the Article 49 of the Civil Code of Ukraine the birth of the individual and his/her origin are subject to the state registration. Part 1 of the Article 144 of the Family Code of Ukraine established a duty of parents to register immediately the child's birth in State civil registration authorities but no later than one month since the birth of the child.

At the same time, the state registration of the birth of the child shall be conducted irrespective of the term which passed since birth under the procedure provided for in the Law of Ukraine «On state registration of acts of civil status». Part 4 of Article 13 of the Law of Ukraine «On state registration of acts of civil status» determined that the basis for carrying out the state registration of the birth of the child are the documents confirming the fact of birth defined by central executive authority providing state policy-making in health care sector.

Also provisions of the Family Code of Ukraine prescribe that the origin of the child by his/her mother shall be identified on the basis of document of a health care institution attesting to the birth of a child delivered by his/her mother and enshrine the right of state registration of birth for the statement of any person, thereby there are no obstacles to carry out such registration in the absence of a passport (passport document) of a mother.

The legislation regulates a mechanism of a documentary confirmation of a fact of a child birth in the event of his/her birth outside a health care institution, which is relevant for persons of the Roma national minority.

According to the part 4 of the Article 13 of the Law of Ukraine «On state registration of acts of civil status» healthcare institution carrying out examination of mother and child shall issue the document confirming the fact of a birth in case of its birth outside the healthcare institution. In the event if healthcare institution did not provide examination of mother and child, the document confirming the birth fact shall be issued by the Medical Advisory Commission under the procedure determined by the Cabinet of Ministers of Ukraine.

The Medical Advisory Commission shall issue the birth certificate in case of establishment the fact that child was delivered by this particular woman.

In the absence of the document of healthcare institution or the Medical Advisory Commission, which confirms the fact of birth, the basis for carrying out the state civil registration is the decision of the court establishing the fact of the birth.

To supplement this it should be noted that till January 10, 2011 (pending on the day the order of the Ministry of Justice of Ukraine of December 24, 2010 No. 3307/5«On introduction of amendments to the order of the Ministry of Justice of Ukraine of October 18, 2000 No. 52/5» had taken effect according to which Rules of the state civil registration function in the new edition), the state registration of the birth of the child who was born outside of healthcare institution had been

carried out on the basis of the medical certificate on stay of the child under the supervision of medical institution and the statement of two witnesses who were present during the childbirth.

However, the above-stated provisions of the legislation on the origin of a child by his/her mother on the basis of testimonies of the witnesses who were present during the childbirth comprised possible corruption risks and could not authentically confirm the fact that child was delivered by woman.

With the adoption of the Decree of the Cabinet of Ministers of Ukraine (Ukrainian Government) of January 9, 2013 No. 9 «On approval the Procedure of confirmation of the fact of child birth outside healthcare institution» activity of the Medical Advisory Commission was established, which, in the case of establishment of the fact of the child birth by the woman, issues the document confirming the fact of birth which, in its turn, is the basis for the state registration of the birth of the child.

In addition, to create favorable conditions and simplify access to public services on state registration of birth the Ministry of Justice of Ukraine had adopted the Order of February 22, 2016 No. 519/5 amending the Order of the Ministry of Justice of Ukraine of August 26, 2015 No. 1593/5 «Some issues of the organization of work of departments of the state registration of acts of civil status related to state registration of child birth», aimed at the acceptance of documents by all the employees of departments of the state registration of acts of civil status in all regions of Ukraine, necessary for the state registration of child birth, and issuance of birth certificates in the healthcare institutions, where deliveries are conducted, in consultation with the directors of the relevant healthcare institutions in the location of the departments.

The introduction of such an approach is one particular incentive of the mandatory state registration of birth, which is free of charge and is accessible to all children, despite their ethnic origin and social status.

It should be noted, that certain measures in this direction were conducted directly in the regions of Ukraine.

Thus, the clarification on the possibility of application of the relevant norms of the legislation by the departments of the state registration of acts of civil status are being permanently provided through publication of articles in print media, appearances on radio and television studios, etc.

In particular, all divisions of the state civil status registration of the main territorial departments of justice (hereinafter referred to as – the MTDJ) continually prepare articles for the state registration of birth («The legal status of the Roma minority in the state registration of birth», «Human rights in Ukraine is the national state strategy», «Protection and integration into Ukrainian society of the Roma minority», «All children are subject to the state registration of birth», «Protecting of rights and interests of citizens of Ukraine, refugees and persons in need of temporary shelter, including Roma» etc) to publish in the local media (including online media) and related information are posted on the MTDJ websites as well.

At the same time, district, city and inter-district divisions of the state civil status registration of the MTDJ in 2016 had organized speeches regarding the issues raised on local television, conducted round tables with representatives of services for children protection, the corresponding information was placed on the boards of these divisions and the village, town and city executive committees of councils (except the cities of regional value), and on the websites of regional state administrations, city councils and portals of the cities; information leaflets were produced and distributed, thematic flash mobs were conducted as well.

In addition, representatives of departments of the state registration of acts of civil status have participated in meetings of Heads and Secretaries of Executive committees, where, among other things, the issue of ensuring state registration of all children were considered, despite their ethnic origin and social status, and also in joint meetings with representatives of territorial subdivisions of the State Migration Service, in legal advisory meetings with representatives of the Roma minority on issues of timely birth registration, etc.

In some regions, necessary information is posted on «Facebook» social network on the pages of all the heads of divisions of the state civil status registration of the relevant region.

Representatives of the main territorial departments of justice in Zakarpattya, Odesa and Kharkiv regions participated in the visit of the representatives of the Contact point for Roma and Sinti issues within the Office for Democratic institutions and human rights (ODIHR) OSCE on November 22, 29 2016 and December 1, 2016 respectively. During the meeting they discussed issues related to the rights of the Roma minority in Ukrainian society, including their documentation and obtaining a birth certificate, clarification to the above norms of the legislation was given and the feasibility of their implementation were explained.

On 30-31 May 2017 in Odessa city representatives of the Ministry of Justice took part in “round table” organized by OSCE ODIHR on access of representatives of Roma nationality in Ukraine to identification documents and certificates on registration of civil status acts. Issues concerning opportunities to simplify and expedite an access to personal documents by Roma and other vulnerable groups of society and as well as establishing coordinating body (technical working group) consisting of officials of Interior Ministry, State Migration Service, Ombudsman Office, lawyers providing legal aid for Roma, representatives of Roma and NGOs were discussed. During the event officials of the Ministry of Justice explained existing legislative provisions on the procedure of state registration of birth and obtaining the relevant certificate by individuals, including Roma. The specific attention was paid on the fact that the state registration could be conducted by the application of anyone meaning there are no obstacles to conduct the registration in case of absence of mother`s passport (passport document). Additionally, detailed clarifications were provided concerning the procedure and mechanism of state registration of birth in the event of his/her birth outside a health care institution.

Aiming to implement the Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society for the period up to 2020 and to execute subparagraphs 2,4 of paragraph 72 of the Action Plan on implementation of the National Strategy of Human Rights for the period up to 2020, the Ministry of Justice ordered and instruction to the MTDJ in the regions and Kyiv to carry out relevant events to ensure an access of representatives of Roma nationality to identification documents and certificates on registration of civil status acts.

Informational-educational campaigns (round tables, working meetings with participation of representatives of Roma communities, thematic flash mobs, preparation and dissemination of informational booklets) were conducted in all regions of Ukraine with the purpose to inform Roma on the importance of obtaining identification documents, particularly birth certificates.

Within the framework of mentioned events throughout Ukrainian regions the cooperation on the local level was ensured between the units of state registration of civil status acts and territorial authorities of the State Migration Service to address an issue connected with obtaining of identification documents by Roma population. In certain districts of all Ukrainian regions meetings



were organized with Roma and receptions of Roma were carried out directly in the places of their living.

Taking into account that the majority of Roma communities are living in Zakarpattia, Odessa and Kharkiv regions, the activities were intensified in these regions and additional measures were taken to solve noted issues.

In August 2017 the management of the unit of state registration of civil status acts of the MTDJ in Zakarpattia region together with the head of charity fund "Development" undertook an outgoing event to Roma settlements in Uzhgorod city and conducted explanatory activity amongst Roma, disseminated booklets regarding state registration of birth.

In August 2017 the leadership of the MTDJ in Odessa region conducted a "round table" with involvement of NGO "Roma Human Rights Centre", NGO "Odessa regional Roma Congress", representatives of territorial offices of State Court Administration, State Migration Service, district courts, regional centre for the provision of free secondary legal aid in Odessa, Health Care Department of Odessa Regional State Administration, working group of Odessa City Council on Roma issues and others. Issues on improvement of inter-agency cooperation concerning obtaining identification documents by Roma as well as concerning organization of contest of projects to overcome social isolation of Roma population were considered.

In all districts of Odessa region representatives of local bureaus for the provision of free secondary legal aid and local self-governance authorities are attracted to address noted issues. The MTDJ in Odessa region developed the reminder cards about the procedure of state registration of child's birth which were translated into Russian, Bulgarian, Romanian and Gagauz languages to ensure appropriate reading of its provisions by Roma who do not speak Ukrainian language.

In August 2017 in the premises of Kharkiv nationally-cultural community of Roma "Romen" a meeting were held between representatives of Roma nationality and the MTDJ in Kharkiv region, units of state registration of civil status acts of certain districts of Kharkiv city to discuss abovementioned issues and find possible ways of solution.

In the course of such meetings with Roma communities a specific attention is always paid on the fact that the absence of identification documents and documents of the state registration of civil status acts hampers to the access of basic services in the spheres of healthcare, employment, education, and participation in political, socially-economic and cultural aspects of society.

At the same time, it should be mentioned that a draft law «On amendments to the Law of Ukraine «On the state civil registration» and some other acts of Ukraine concerning decentralization and approach of citizens to administrative services in the sphere of the state civil registration», brought to the Verkhovna Rada by the Cabinet of Ministers of Ukraine (reg. No. 6150 of February 28, 2017) was registered according to the legislative initiative, which enshrine the principle of extraterritoriality in the work of bodies of the state civil registration, an order of the state civil registration becomes simpler for the purpose of the maximum approach of the corresponding services to the person as well.

In particular, it is provided by the draft law that the state registration of the birth of the child is conducted by any state civil registration body irrespective of the place of residence of the child and his/her parents, and also from the birthplace of the child. The admission of the monthly term established for the state registration of the birth does not affect the procedure of carrying out such registration.

The norm on the state registration of the birth for the statement of the child who reached 16 years with presentation of the passport of the citizen of Ukraine is also excluded.

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*The Ministry of Justice of Ukraine*

*(concerning access of internally displaced persons (IDP) to free legal aid)*

All persons who are under the jurisdiction of Ukraine including internally displaced persons (IDPs) have a right to free primary legal aid, which includes the following types of legal services: providing legal information, counseling and explanations on legal issues; drawing up statements, complaints and other documents of legal nature (except for documents of a procedural nature); providing aid in ensuring access of a person to secondary legal aid and mediation, in accordance with the Constitution of Ukraine and Article 8 of the Law of Ukraine «On Free Legal Aid» (hereinafter referred to as - the Law).

Subjects providing free primary legal aid in Ukraine are executive authorities, local self-government bodies, natural and legal persons of private law according to Article 9 of the Law.

Provision of free primary and secondary legal aid is one of the main tasks of centers providing free secondary legal aid according to subparagraph 2 of paragraph 7 of the Regulation on centers for the provision of free secondary legal aid, approved by the order of the Ministry of Justice of Ukraine of July 2, 2012 No. 967/5 (new edition of 24 May 2016).

The Law of Ukraine «On the High Council of Justice» amended, particularly, the Law of Ukraine «On free legal aid» aiming to expand the range of persons entitled to receive free secondary legal aid (including IDPs and individuals who have applied to be registered as IDPs) came into force on 5 January 2017. In particular, mentioned socially vulnerable categories of citizens have acquired the right to the following types of legal services: protection; provision representation the interests in courts, other state bodies, self-government bodies over other persons and drafting of procedural documents as well.

1 589 014 IDPs or 1 278 714 families who as a result of temporarily occupation were forced to move from Donetsk and Lugansk regions or from the Autonomous Republic of Crimea were registered as of August 7, 2017.

5 066 IDPs asked for granting free legal aid during the period from July 1, 2015 to August 18, 2017 according to the information provided by the local centers for provision of free secondary legal aid. In particular, 4 435 persons were provided with consultations (clarification of the legislation of Ukraine) by employees of the appropriate centers regarding issues raised by them (social security, employment, housing); 1 259 persons were provided with free secondary legal aid on the drafting of procedural documents; lawyers were assigned to 937 for provision free secondary legal aid, which foresees representation of their interests in courts, other state bodies, local self-government bodies or over other persons.

Issues which had been addressed by IDPs to local centers providing free secondary legal aid related to their social protection, assignment of social assistance, benefits, subsidies and other payments, provision of housing, land, labor and inheritance rights.

**Article 8 of the Framework Convention ( pp.95-98, 100)**

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*The Ministry of Culture of Ukraine  
(manifestation of religious beliefs)*

In the paragraph 95, the Advisory Committee notes that "Only the Ukrainian Orthodox Church of the Moscow Patriarchate currently enjoys worldwide recognition among orthodox churches".

The Ministry of Culture of Ukraine notes that this is not an objective fact, such point of view is directly represented by the Ukrainian Orthodox Church of the Moscow Patriarchate itself, and the Russian Orthodox Church, part of which is the UOC-MP.

Also we note that this Orthodox Church is not listed in the Diptychs (lists) of the Orthodox churches (neither in the diptych of the autonomous Orthodox churches (14 names) nor in the diptych of autocephalous churches (5 titles), which represent the completeness of the Universal Orthodox Church. In the Diptych of autocephalous Orthodox churches there is the only Russian Orthodox Church. Consequently, the Ukrainian Orthodox Church of Moscow Patriarchate has the world-wide recognition among the Orthodox churches exclusively through the Russian Orthodox Church as its immediate constituent.

So The Ministry of Culture of Ukraine recommends to remove the above statement in paragraph 95 of the Manifesto of Religious Beliefs, since it does not comprehensively cover the raised issue.

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*The Ministry of Culture of Ukraine  
(manifestation of religious beliefs)*

In the paragraph 96, the Advisory Committee notes that "on October 6, 2016, the Parliament considered a draft law" On Amendments to the Law on Freedom of Conscience ", which aims at facilitating individual parishes to leave one canonical structure and to join another. This proposed change is aimed at facilitating movement parishes that until that time belonged to the Ukrainian Orthodox Church of the Moscow Patriarchate, to the Kyiv Patriarchate. "

In 2016 a draft law on amendments to the Law of Ukraine "On Freedom of Conscience and Religious Organizations" (regarding to the change of subordination by religious communities) № 4128 was introduced to the Parliament of Ukraine. The purpose of this draft law, first of all, is to simplify the mechanism of changing the jurisdiction of religious communities, if their members have taken such decision by the majority vote. This proposed by draft law measure can apply to all religious communities, which carry out their activities in Ukraine without exception (not only religious communities of the UOC and the UOC-KP).

As of the end of 2017, approximately 172 changes (transitions) of jurisdictional belongings of religious communities took place, namely: from the UOC to the UOC-KP - 63; from the UAOC to the UOC-KP - 100; from the UOC-KP to the UAOC - 6; from the UAOC (o) to the UOC-KP-1; from the UOC to the ROCOR 1, from the CPI to the UOC-KP-1 and so on. Therefore, the statement that the legislative initiative is aimed at facilitating the change of jurisdiction for communities only from the UOC-MP to the UOC-KP only fragmentarily cover the inter-confessional situation.

It is important to emphasize that the bill № 4128 was submitted for consideration to the agenda of the Parliament of Ukraine on October 6, 2017, however, it was not considered neither at the plenary meeting in the session hall on October 6, 2017, nor in the future, during 2017.

That's why we recommend:

- To replace the phrase "On October 6, 2016, the parliament considered the bill" on "October 6, 2016, the Parliament planned to consider the draft law".
- In paragraph 96, delete the phrase «hitherto belonging to the Ukrainian Orthodox Church of the Moscow Patriarchate, to the Kyiv Patriarchate» and replace it with «the transition from one jurisdictional affiliation to another by religious communities».

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*The Ministry of Culture of Ukraine  
(manifestation of religious beliefs)*

One of the priority and strategic directions of state policy in the field of state-confessional relations in Ukraine there is the promotion of the creation of an independent autocephalous (local) Ukrainian Orthodox Church, which will be a separate independent entity of World Orthodoxy, that is at the same level as with the other 14 Orthodox churches (included in the Diptych (list) of autocephalous Orthodox churches and represent the completeness of the Ecumenical Orthodoxy), but not that which is represented in the World Orthodoxy through another autocephalous Orthodox Church (ROC) , as an integral part of it (UOC-MP).

One of the was of establishing such an independent autonomous Ukrainian Orthodox Church in Ukraine is to provide Thomos with the Ecumenical Patriarch (head of the Constantinople Orthodox Church as the mother church in relation to all jurisdictions of Ukrainian Orthodoxy). In the historical practice of the development of independent states, there are many precedents of promoting by the authorities, in particular through appeals to the Ecumenical Patriarch to receive Thomos.

In this way the Ellada Orthodox Church, the Romanian Orthodox Church, the Serbian Orthodox Church, the Polish Orthodox Church, the Georgian Orthodox Church and the Estonian Orthodox Autonomous Church were formed.

Thus, on June 6, 2017, the Parliament of Ukraine (but not the speaker of the Parliament, as stated in paragraph 97 of the Consultative Committee) adopted «The Appeal of the Verkhovna Rada of Ukraine to His Holiness Bartholomew, the Archbishop of Constantinople and New Rome, of the Ecumenical Patriarch to provide autocephaly to the Orthodox Church in Ukraine».

So, addressing to and conducting negotiations with the Ecumenical Patriarchate by authorized representatives of Ukraine is an appeal to the usual world practice, as well as activities within the strategic direction of the state-confessional policy of Ukraine.

That's why the Ministry of Culture of Ukraine recommends to delete paragraph 9 of the Manifesto of Religious Beliefs, as its content does not outline the real state of state-confessional relations of Ukraine at the international level, but covers the situation only from the standpoint of the church structure - the Russian Orthodox Church of another state, that it is biased.

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*The Ministry of Culture of Ukraine  
(manifestation of religious beliefs)*

To point out that the policy of Ukraine regarding creating equal opportunities for all in providing real assistance to each religious organization, including problems that the Ukrainian public has long been waiting for.

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*The Ministry of Culture of Ukraine  
(manifestation of religious beliefs)*

The restitution process in Ukraine began in the first years of independence. As of the beginning of 2017 9700 buildings were returned to religious organizations, which is 99.2% of the total number of religious buildings expropriated by the Soviet regime. At present there are about 80 religious buildings (0.8%) left.

Thus, the restitution process in Ukraine is at the final stage and the returning of those 0.8% is in the legislative sphere, taking into account the guaranteed equal rights for religious organizations in Ukraine.

That's why the Ministry of Culture of Ukraine recommends when giving the recommendations of paragraph 100 «Restitution of religious property and places of worship Recommendation Manifestation of religious beliefs» Article 8 of the Framework Convention, to take into account the above-mentioned information.

**Article 9 of the Framework Convention ( pp.103-109)**

*The National Council  
(Legislation on television and radio broadcasting in minority languages)*

Concerning **item 103** it should be mentioned that in the framework of public broadcaster establishment within media area reforming in Ukraine there have been foreseen protection of ethnic minorities' rights in their access to the media in order to support development of the media, their diversity and pluralism, cultural development and promoting tolerance related to ethnic minorities. In particular, one out of 17 Members<sup>1</sup> of the Steering Committee of the National Public Broadcasting Company of Ukraine (NPBCU) represents concerns and interests of non-governmental associations in order to safeguard the rights of ethnic minorities.

Concerning **item 105** be informed that the National Council of Television and Radio Broadcasting of Ukraine from July 2014 to August 2017 at the results of monitoring sessions defined

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<sup>1</sup> The Members of the Steering Committee representing non-governmental organizations were elected by preferential voting for the candidates from unions and associations separately on each area of activities basis. Related to election of a representative of the area of ethnic minorities the National Council carried out two conferences, since the first one failed to elect the relevant Member of the Steering Committee. The second, repeated, conference in this area was applied by 53 applicants and 32 NGOs out of them were allowed to participate in the conference.

foreign programs that contained information that violated the Ukrainian legislation and the provisions of the European Convention on Transfrontier Television. In order to safeguard the informational safety of Ukraine there were approved a number of decisions that restricted dissemination of **80 foreign programmes** in the territory of Ukraine.

We emphasize that the powers of the National Council related to regulation of foreign programs presence in networks of program service providers of Ukraine, which are licensees of the National Council, are defined by paragraph 2 of Article 42 of the Law of Ukraine “On Television and Radio Broadcasting” (If an economic entity, which is under the jurisdiction of Ukraine, intends to retransmit programs under a relevant permit obtained from a rights holder (producer), which is not under the jurisdiction of either an EU member-state or a state that has ratified the European Convention on Transfrontier Television, it has the right to retransmit programs only subject to their content conformity with requirements of the legislation of Ukraine, of the European Convention on Transfrontier Television and subject to their inclusion into the list of programs that are retransmitted in pursuance of a relevant decision of the National Council of Television and Radio Broadcasting of Ukraine).

As of 31 August 2017 *the List of programs content of which meets the requirements of the European Convention on Transfrontier Television and the legislation of Ukraine* includes 161 foreign programs which are under the jurisdiction of 20 countries, where 13 countries are EU Member-States, in quantitative indices they make 93,1% out of all foreign programs that are broadcast in the territory of Ukraine. In particular, broadcasting is either fully or partially provided in the Polish language (10 programs), in the German language (3 programs), in the Bulgarian language (2 programs), in the Belarusian language (2 programs).

The **item 106** is expedient to be extended with the information that the National Council does not keep any systemic awareness of TV and radio programs aimed at meeting language needs of ethnic minorities in Ukraine. However, the regional administrative offices of the NPBCU and a number of private TV and radio companies use language of ethnic minorities, which densely populate certain territories, in their programs broadcasting. In particular, programs in ethnic languages and in regional languages are disseminated by TV and radio companies of Transcarpathian, Odesa, Chernivtsi, Lviv and Zhytomyr regions.

In the territory of the Transcarpathian Region the Transcarpathian Regional Administrative Office of the NPBCU (logo “Tysa 1”), additional to the Ukrainian language, produces programs in the Hungarian, Romanian, Slovak, German, Roma, Russian and Rusinsk languages. In this region there are private radio stations broadcasting in the Hungarian language.

In Odesa Region the Izmail TV Studio and the LLC “TV and Radio Company “Southern Wave-TV” produce programs in the Moldavian, Gagauz and Bulgarian languages (news of the region, information on the work of national and cultural centers, coverage of religious holidays, etc.). The Odesa Regional Administrative Office of the NPBCU possesses longstanding experience of hosting regular programs in the Moldavian language (“Plaiul Natal”), in the Bulgarian language (“Roden Krai”) and in the Gagauz language (“Ana Tarafi”). They are weekly TV magazines about activities of national and cultural associations, about revival of ethnic languages and cultures, about history of ethnicities in Ukraine.

In Chernivtsi Region the Regional Administrative Office of the NPBCU prepares TV (in analogue and digital formats) and radio programs in the Romanian language. The share of the Romanian-language content makes 8% out of the total volume of broadcasting in analogue format (out of the

total volume of broadcasting of 4 hours per day) and 3% - in digital format (out of the total volume of broadcasting of 24 hours per day). Radio: UR1 – 19,5%, UR2 – 10,7%, UR3 – 4,7%.

In Lviv and Zhytomyr regions private TV and radio companies broadcast in the Polish language. The Crimean-Tatar language is broadcast in Ukraine by the TV and radio company LLC TV Company Atlant-SV (call signs “Radio Meidan”; TV logo “ATR T”).

Moreover, the National Council takes all possible measures, provided for by the legislation, to prevent and restrict broadcasting of programs of anti-Semitic and xenophobic nature in the media area of Ukraine.

Concerning **items 107-108** on “strict language quotas” be informed that considering the existing threat of the state language extinction in the national radio broadcasting, the current problem of Russification of the broadcasting time and dominating of music of the aggressor-state, the relevant language quotas were introduced in Ukraine.

The quotas on radio impose on broadcasters an obligation to broadcast certain content in the defined volumes (limits) during a defined timeframe. Such requirements are set in order to protect the national product and they provide for the minimal guarantees for dissemination of content that is under protection. The mentioned quotas are set in line with European regulatory acts and do not confront their standards, since the state has the right to clarify such provisions in its national legislation and the Ukrainian product is categorized as such that has European origin.

Ukraine keeps up the way of European countries which support their music culture and music market in this way. Such language quotas for songs are introduced in France, Germany, Poland, Portugal and a number of other countries.

Thus, on 8 November 2016 the Law of Ukraine “On Amending Certain Laws of Ukraine on the Share of Music Works in the State Language in Programs of TV and Radio Organizations” entered into force. The Law substantially changed the Laws of Ukraine “On the National Council of Television and Radio Broadcasting of Ukraine”, “On Television and Radio Broadcasting of Ukraine”, “On the Principles of the State Language Policy” related to quotas of songs (wordy music works) in the state language and in the official languages of the European Union in the air of Ukraine. In particular, The Law foresees that during the first year commencing entering of the Law into force the share of songs in the state language must be (not less than) 25%, during the second year – (not less than) 30%, during the third year and further on – (not less than) 35%. Moreover, during the first year the minimal share of programs in the state language must be not less than 50%, during the second year – not less than 55% and during the third year and further on – not less than 60%.

Setting quotas has provided the possibility for the Ukrainian listeners to hear and to listen to music in their own language on the radio, for musicians – to access the Ukrainian air broadcasting. However, the state lets radio stations absolutely freely choose the number of songs, their thematic areas, how to fill the air time either with news, or entertaining programs, or other story telling programs.

However, whatever the quantitative measures related to broadcast songs, not less than 35% of time must be in Ukrainian. This means that if the total daily amount of broadcast songs is 100 minutes, so not less than 35 minutes should be for songs in the Ukrainian language. If the songs are broadcast only for 200 minutes, so the time for Ukrainian-language songs must amount to not less than 70 minutes. Such a simple and unified provision makes all radio stations be equal and it supports the development and promotion of the Ukrainian song without harassing the languages of ethnic minorities, and the Russian language in particular.



Failures to adhere to the above legislation requirements entail imposition of a sanction provided for by Article 72 of the Law of Ukraine “On Television and Radio Broadcasting” – a fine in the amount that depends on the type of a violation.

We would like to draw the attention, that the sanctions of the National Council cannot be taken and considered as a “punitive approach” for noncompliance with the language quotas, since any sanction applied by the regulator is aimed at drawing a licensee’s attention to its violations and provides it with the possibility to remedy such violations. Thus, the National Council exercises the powers given by law and aims only at ensuring strict adherence by all licensees to licensing terms and conditions and to the legislation in the broadcasting area.

Concerning **item 109** on encouraging broadcasting of programs in the minority languages be informed that according to the Methodology of calculation of the amounts of a licensing fee for issuing or renewal of a broadcasting license, of a program service provider license, defining the amount of fee for reissuance of a broadcasting license, of a program service provider license (the amended Decree of the Cabinet of Ministers No. 412), there have been foreseen the possibility of decreasing the amount of a licensing fee if a TV and radio organization in its program content scheme uses mostly TV programs of domestic production and/or children, educational programs of domestic production. These programs can optionally be programs in the minority languages.

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*The State Judicial Administration*

On July 19, 2017, the Cabinet of Ministers of Ukraine adopted Resolution № 542 «On Amendments to the Resolution № 710 of July 1, 1996», which regulates the issue of paying remuneration to translators, which brought to the pre-trial investigation bodies, to the prosecutor's office, to the court, or to bodies in the course of which proceedings on administrative violations take place, in cases of administrative offenses, for the provision of services for interpretation and translation. Adoption of the normative act will allow to involve to the process of translation qualified specialists, which will consequently result in accelerated consideration of certain cases and will ensure the right of everyone to a fair trial in accordance with European standards.

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*The National Agency on Civil Service*

Article 10 of the Constitution of Ukraine defines that the Ukrainian language is the state language of Ukraine. The state provides comprehensive development and functioning of the Ukrainian language in all spheres of public life throughout Ukraine. In Ukraine free development, using and protection of Russian and other languages of national minorities of Ukraine are guaranteed. The Constitutional Court of Ukraine by its Decision of December 14, 1999 № 10-rp / 99 (case concerning the using of the Ukrainian language) defined that the provisions of Article 10, paragraph 1, of the Constitution of Ukraine should be understood as meaning that the Ukrainian language as a state language is the obligatory means of communication throughout the territory of Ukraine in the exercise of powers by state authorities and local government bodies (language of acts, work, record keeping, documentation, etc.), as well as in other public spheres of life, which are determined by law (part five of Article 10 of the Constitution of Ukraine). With the entry into force

of the Law of Ukraine dated December 10, 2015, № 889-VIII "On Civil Service" (hereinafter - the Law), an important stage of the reform of the civil service began, in particular, in terms of increasing professionalism and introducing new conditions for entry and admission of civil service in accordance with the best international practice.

In accordance with Article 4 of the Law, the state service is carried out, in particular, with the observance of the principle of free possession of the state language, which is also provided for in Article 8, paragraph 5 of the Law, as a civil servant's obligation to use the state language during the performance of his official duties, not to discriminate against the state language and counteract possible attempts to discriminate it.

According to Article 20 of the Law, the free possession of the state language is a general requirement for persons applying for admission to the civil service of categories "A", "Б" and "B". Similarly, the general requirement is, for example, the citizenship of Ukraine. At the same time, the Article 25 of the Law of Certification of the free possession of the state language, which must be submitted by persons wishing to take part in the competition, is an official confirmation of the level of possession of the state language by applicants for vacancy in the civil service.

In accordance with Article 1 of the Law of Ukraine "On the Principles of the State Language Policy", the state language is the language prescribed by the legislation, the use of which is obligatory in the bodies of state administration and record keeping, institutions and organizations, enterprises, public institutions of education, science, culture, in the spheres of communication and informatics, etc. Part 2 of Article 6 of the Law defines that the Ukrainian language as a state language will be applied throughout the territory of Ukraine in the exercise of powers by the legislative, executive and judicial authorities, in international agreements, in the educational process in educational institutions within the limits and in the order determined by this Law.

The regional language or language of a minority that meets the requirements of part three of Article 7 of the Law of Ukraine "On the Principles of State Language Policy" is used in the certain territory of Ukraine in the work of local authorities, authorities of the Autonomous Republic of Crimea and local self-government, applied and studied in state and communal educational establishments, and also used in other spheres of public life within the limits and in the order determined by this Law.

Within the territory in which certain regional or minority language is disseminated, measures for its development, using and protection are obligatory for local authorities, local self-government bodies, associations of citizens, institutions, organizations, enterprises, their official and officials, as well as for citizens - entrepreneurs and individuals. It should be noted that none of the provisions of this Law on measures for the development, using and protection of regional or minority languages should not be construed as impeding the using of the state language.

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*The Ministry of Culture of Ukraine*

In 2015, as an advisory body of the Cabinet of Ministers of Ukraine, was formed the Interdepartmental Working Group on Implementation of the Roma Strategy Action Plan, headed by Vice Prime Minister of Ukraine Pavlo Rosenko. One of his deputies Zemfira Kondur represents the Roma NGO International Charitable Organization "Roma Women's Fund" Chirikli ".

The first meeting of the Interdepartmental Working Group took place on November 7, 2016. It had been agreed to create 5 Working groups within the Interdepartmental Working Group, the Secretariat of the Interdepartmental Working Group, as well as the need to improve or develop new regional plans for implementation of the Strategy. Such decisions are aimed at correcting and ultimately improving the Action Plan implementation.

By an order No. 328 of the Ministry of Culture of Ukraine of 18 April 2017, the Statute of the Secretariat of the Interdepartmental Working Group was approved. In order to form a personal staff of the Secretariat, the Ministry of Culture on April 21, 2017 announced a professional examination on membership in the Secretariat. Following a competitive selection process, on July 3, 2017, the candidacy of Tatiana Kurach had been approved, according to the results of the selection on March 5, 2018, Vladimir Yakovenko was taken on a probationary term.

Nowadays all 5 Working Groups have been established and are in operation - on education and culture issues; on housing issues; on social welfare and health-care issues; on legal and financial issues; on organizational and informational support. The composition of the working groups, except the working group on legal and financial issues, was approved.

During the last year, 4 working meetings were held: April 11 - working group on organizational and informational support; July 17 - working group on legal and financial issues; September 15 and October 25 - working group on housing issues.

On January 16, 2018 the session of the Working Group on education and culture issues was held. The second meeting of the Interdepartmental Working Group is scheduled to take place in April this year.

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*The Ministry of Culture of Ukraine*

The Ministry of Culture of Ukraine is looking for new ways of communication, cooperation and decision-making in the field of ethno-national policy.

In Ukraine there are several authoritative so-called "umbrellas" organizations that unite different public organizations of national communities. But none of them can claim the status of a universal structure that expresses the interests of the entire spectrum of national organizations.

With the purpose of effective implementation of the state ethno-national policy and strengthening of communication between national communities and state bodies responsible for the protection of the rights and interests of national minorities, the Ministry of Culture of Ukraine established a consultative and advisory body - the Council of Ukrainian National Organizations, which consists of the most authoritative and representative public organizations of national communities. It is worth noting that the leaders of "umbrellas" organizations representing the collective opinion and position of all organizations of national communities, enter into the structure of "umbrella" organization.

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*The Ministry of Social Policy of Ukraine*

For the purpose of social protection and integration into the Ukrainian society of the Roma national minority the State Employment Service, in places of compact residence of the Roma

national minority, takes measures which are constantly carried out to inform the population about social services, in particular informational and consulting and vocational guidance measures.

At the same time, the submission of citizens to the employment center data about national or ethnic affiliation is not provided by legislation, data on the number of unemployed persons, the inclusion of active employment and employment programs in terms of their nationality or ethnic origin to the State Employment Service are not formed.