

STATE LANGUAGE POLICY IN UKRAINE: CONSTITUTIONAL AND LEGAL SUPPORT

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INTRODUCTION

Language as a socio-historical phenomenon, a means of human communication, thinking and expression (objectification of self-consciousness) plays, as is known, a decisive role in the process of formation of man as a person, his becoming a citizen, integration into a social environment, adoption of its norms, traditions, values, engagement in the achievements of culture, accumulation of knowledge, information and social experience. The potential of language, its richness and possibilities, being conditioned by the mentality of the subjects of social action, their worldview, world perception and world attitude, are fairly considered as the personification of centuries-old spiritual, intellectual and cultural achievements of the ethnic group, a powerful means of forming common sense values that are realized in the functions of language, its social purpose. For example, the consolidation potential of a language manifests itself, first of all, in promoting the development of ethno-national processes as universal ones, ensuring the unity of the people, asserting its uniqueness, eternity in Nature and Cosmos.

Important potential of language is also associated with its capabilities as a means of identifying various subjects of social action – individuals, ethno-national communities, nations, states, unions of states as supra-state entities. Accordingly, the hierarchy of linguistic identities can acquire different forms, presenting with that a peculiar integrity as a unity of defining attributes: a) basic, initial ones (personal self-determination); b) socio-group and socio-cultural ones (educational, religious, ethnic, national, political, age, gender, professional ones, etc.); continental, transcontinental, global ones (the European Union, the Council of Europe, NATO, UN).

Accordingly, state language policy can be understood as a combination of politico-ideological and legal and regulatory provisions, practical actions aimed at regulating language relations in a multi-ethnic society. The nature of the implementation of state language policy is

conditioned by the degree of centralization of power, as well as the form/type of state system – unitary, federative or confederative, which also implies the consideration of the challenges of globalization, primarily in terms of the rapid spread of widely used languages, which are narrowing down and in some cases supplanting some languages of indigenous peoples, titular ethnic groups, forming a multicultural society. In this case, the state carries out politico-ideological, organizational, legal, administrative and financial support of language policy.

1. Theoretical and Methodological and Constitutional and Legal Principles of the Development and Implementation of the State Language Policy in Ukraine

A peculiar paradigm of harmonization of the national language space is represented by the polylinguistic language model¹, which forms the fundamental theoretical and methodological basis for the formation of an atmosphere of tolerance, harmony and understanding, consolidation of a multilingual society by mastering the full diversity of languages of the national language space – from the lullaby, family and native, regional language of the minority to the language of the state (the official one). Accordingly, it can be argued that the whole set of languages used by citizens to meet their needs as means of communication, identification and social integration within a certain linguistic space, outlined by the officially defined state border, forms the generalizing notion of the «national language».

Theoretical and methodological foundations of the legal and regulatory realization of the aforementioned poly-linguistic language model are contained in works of domestic and foreign scientists: Havrylenko, I.M.², Kononenko, P.P. and Kononenko, T.P.³, Mykhalchenko, M. I.⁴, Nahorna, L. P.⁵, Ryabchenko, V. I.⁶, Bauman, Z.⁷, Beck, U.⁸, Tourain, A.⁹ et al.

¹ Єрмоленко С. Я. Мова і українознавчий світогляд : монографія. К.: НДІУ, 2007. 444 с.

² Гавриленко І. М., Мельник П. В., Недюха М. П. Соціальний розвиток: навчальний посібник. К.: Академія ДПС України, 2001. 484 с.

³ Кононенко П. П., Кононенко Т. П. Феномен української мови. Генеза, проблеми, перспективи. Історична місія. К.: Наша наука і культура, 1999. 136 с.

⁴ Михальченко Н. И. Украинское общество: трансформация, модернизация или лимитроф Европы. К.: Институт социологии НАНУ, 2001. 440 с.

⁵ Нагорна Л. П. Політична мова і мовна політика: діапазон можливостей політичної лінгвістики. К.: Світогляд, 2005. 315 с.

⁶ Рябченко В. І. Мова як засіб творення соціальної дійсності. К.: Фітосоціоцентр, 2011. 244 с.

The solution of language problems in Ukraine, the implementation of state language policy is correctly associated with the use of the theoretical and methodological potential of legal ideology¹⁰, philosophy and sociology of law¹¹, constitutional jurisdiction¹², law-making and legislative process¹³, ensuring a stable development of the legal system and its social dimension¹⁴, etc.

2. Historical and Legal Principles of Functioning of the Ukrainian Language as the State One

The prevalence of the Ukrainian language in the world, its state status in Ukraine is largely due to its established nature in time and space, the millennial history of use in various spheres of social and cultural life. It is well-known that during the time of the Kievan Rus, the Old Russian language as the prototype of the current Ukrainian language had a status close to that of the state language, being not only a means of daily communication, but also the language of state and private correspondence, chronicle writing, fine literature, records management, legislation and legal proceedings.

The aforementioned status of the Old Russian language was fixed, as is known, by the Volhynia Statute of 1566 – the Code of Laws of the Grand Duchy of Lithuania on the lands of Galicia and Western Volhynia of the XIV – the first half of the XVI century, which were under the control of the then Poland.

Translation into the Old Russian language of the so-called Piotrkow-Wislica Statutes of king Casimir the Great as a collection of legal norms of medieval Poland (1357), the functioning of the Old Russian language in the official business spheres of Lithuania, Volhynia, Bratslav and Kiev voivodships (provinces) as well as in the Moldavian Principality can be

⁷ Бауман Зигмунт. Индивидуализированное общество / Пер. с англ. под ред. В.Л. Иноземцева. М.: Логос, 2002. 390 с.

⁸ Бек Ульрих. Общество риска. На пути к другому модерну / Пер. с нем. В. Седелника и В. Федоровой; Послесл. А. Филиппова. М.: Прогресс-Традиция, 2000. 384 с.

⁹ Tourain A. Critique de la modernite. P.: Fayard, 1992. 431 p.

¹⁰ Недюха М. П. Правова ідеологія українського суспільства: монографія. К.: "МП "Леся", 2012. 400 с.

¹¹ Костицький В. В. Захист суспільної моралі як функція сучасної держави: монографія. Дрогобич: Коло, 2013. 172 с.

¹² Селіванов А. О. Теорія і практика застосування конституційного права України. К.: Логос, 2016. 176 с.

¹³ Копиленко О. Л., Богачова О. В. Законотворчий процес: стан і шляхи вдосконалення: кол. монографія у 2-х ч. К.: Реферат, 2010. 696 с.

¹⁴ Оніщенко Н. М., Пархоменко Н. М. Соціальний вимір правової системи: реалії та перспективи: монографія / Відп. ред. Ю. С. Шемшученко. К.: Видавництво "Юридична думка", 2011. 176 с.

seen as an illustration of the international recognition of the aforementioned language, of its use as a means of interethnic communication.

In the XVII century, the Ukrainian and Belarusian languages, as is well-known, began to function as independent ones, having branched off from the Old Russian language as its self-sufficient analogues, whereas Moscovia only since the beginning of the eighteenth century, according to the special circular of Peter I, began to be called Russia. This event represents, in our opinion, the beginning of the functioning of the Russian language in its independent status, finds its further development in the fact that the correspondence of Bohdan Khmelnytskyi with Tsar of Moscow Alexei Mikhailovich was conducted in the Ukrainian language, whereas the correspondence of the latter with the former was conducted in Russian. Accordingly, the status of the Ukrainian language as the state one was not subject to doubt, considering, first of all, its free use in the activities of the general, regimental, sotnia (Cossack squadron) chancelleries, courts, records management of the Hetmanate's state institutions.

And only in course of time the Ukrainian language began to suffer all kinds of infringement, disappearing completely from the official use in the western lands in the XVIII century, whereas in the left-bank Ukraine the remnants of linguistic autonomy were eliminated in the early 80's of the same century. As is well known, printing books in Ukrainian, except for artistic texts and historical (literary) monuments, was prohibited by the Valuev Circular (1863) and the Ems Decree (1876), by more than 170 legislative acts in total that made it impossible to study Ukrainian, teach it and print in it¹⁵.

Despite the infringements, official bans, colonial condition, the Ukrainian language, thanks to the efforts of its prominent representatives – I. Kotlyarevskyi, T. Shevchenko, I. Franko, L. Ukrainka, O. Pchilka, Ye. Hrebinka, H. Kvitka-Osnovyanenko, P. Kulish was established as a literary one with the corresponding phonetic orthography (P. Chubynskyi, M. Drahomanov), the grammar (O. Pavlovskyi) and vocabulary support (P. Biletskyi-Nosenko), which initiated the legitimate processes of literary linguistic self-identification of Ukrainians as a nation.

¹⁵ Мовна політика в Україні // Мала енциклопедія етнодержавознавства / НАН України. Ін-т держави і права ім. В. М. Корецького; Редкол.: Ю. І. Римаренко (відп. ред.) та ін. – К.: Довіра: Генеза, 1996. – С. 173, 185.

Significant is the contribution of the Ukrainian People's Republic and the Western Ukrainian People's Republic, and later – of the Carpathian Ukraine to strengthening the Ukrainian language as the state one, ensuring equal rights of the languages of national minorities of Ukraine. The «Provisions on Ensuring the Equality of Languages and Promoting the Development of the Ukrainian Culture» adopted in July, 1927, guaranteed the status of the Ukrainian language which was close to that of the state one, which, however, did not protect Ukraine from the next 60 years of the official limitation of its use, or even frank neglect of the state-building potential of the Ukrainian language, its status as the state one, which led to the narrowing down of its functions, the denationalization of the Ukrainian people, and the artificial stifling of its development.

And only since the beginning of the 90s, the processes of sovereign development have contributed to the comprehensive formation of the Ukrainian language as the state one, its establishment as a national language – the language of an individual nation, which is spoken by the overwhelming majority of its representatives on the territory of the country and beyond – in Australia, the United Kingdom, Canada, the USA, Argentina, the Russian Federation, Kazakhstan, etc. The Ukrainian language «is one of the twenty most widely spoken languages of the planet and occupies one of the leading places in terms of linguistic perfection»¹⁶.

3. The Current State of the Legal and Regulatory Support of the State Language Policy in Ukraine

The state language policy in Ukraine is carried out in accordance with the constitutional provisions of Articles 10, 11, 53 of the Fundamental Law of Ukraine, which guarantee the comprehensive development and functioning of the Ukrainian language as the state one in all spheres of public life, the free development, use and protection of the languages of national minorities, which finds its embodiment in promoting the consolidation and development of the Ukrainian nation, indigenous peoples and national minorities of Ukraine. The aforementioned provisions of the articles of the Constitution of Ukraine also guarantee the right to study in one's native language or to study one's

¹⁶ Мусієнко Г. Мова українська // Етнократологічний словник / За ред. О. В. Антонюка, М. Ф. Головатого, Г. В. Щокіна. К.: МАУП, 2007. С. 368.

native language at state and municipal educational institutions or through national cultural societies¹⁷.

The implementation of the state language policy is subordinated to the tasks of establishing harmonious social relations (balance of interests) in the sphere of application and free, legally-regulated functioning of languages in Ukraine by satisfying linguistic, cultural, educational, informational needs, observing the rights and freedoms of Ukrainian citizens.

The main principles of the implementation of the state language policy in Ukraine are:

- state protection and support, ensuring the development of the Ukrainian language, strengthening its state status, prestige and significance, expanding its sphere of functioning as a means of communication – interethnic and international one;

- ensuring the implementation of universal humanistic and democratic values as defining features of the social environment of non-conflict coexistence of the state (official) language and minority languages as languages of national minorities;

- comprehensive development and protection of the languages of national minorities as a personification of linguistic and cultural diversity, meeting the linguistic needs of representatives of different nationalities, ethno-national groups in terms of forming a national consciousness;

- ensuring the linguistic rights of citizens belonging to national minorities for studying in or studying of their mother tongues at state and communal educational institutions and various national-cultural societies;

- facilitating the study of languages of international communication, first of all, the official languages of the UN, promoting polylinguism as the initial «cell» of the state language policy.

The main areas of the implementation of the state language policy include, inter alia: a) promotion of linguistic diversity with respect to the recognition and enforcement of language rights of representatives of all nations, nationalities and national minorities living in a certain territory; meeting their linguistic needs; b) development of intercultural tolerance, formation of linguistic balance in the context of formation of Ukrainian society as a multicultural one, of prospects of its integration into the European and world socio-cultural and educational space; c) a

¹⁷ Конституція України № 254к/96-ВР від 28.06.1996 р. // URL: zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80

comprehensive development of the individual, including in terms of ensuring his/her mobility, the formation of the social space as a multilingual one.

The Ukrainian legislation also contains a number of definitions of defining terms that determine the essence of the state language policy. Thus, in particular, the Constitutional Court of Ukraine has determined that the state (official) language is a language to which the state has been granted the legal status of a compulsory means of communication in public spheres of the life of society. In this case, the state language is understood as the language prescribed by the legislation, the application of which is obligatory in exercise of powers by state authorities, local self-government bodies (united territorial communities), at state and communal enterprises, institutions and organizations, educational, scientific, cultural institutions, in mass-media, in the fields of communications and information, and in the public life of Ukraine as a whole¹⁸.

The most important tasks of the state language policy in Ukraine include: a) promoting the comprehensive development of the individual, including in terms of ensuring her/her mobility, guaranteeing the right for a free choice of language as a means of communication, the formation of a social space as a multilingual one; b) formation of linguistic diversity in terms of recognition of the linguistic rights of representatives of all nations, nationalities and national minorities living in a certain territory; meeting their linguistic needs; c) proclamation at the regional and local levels of the list of languages recognized in Ukraine as regional or minority ones (minority languages); d) clarification of the peculiarities of the realization of the right of Ukrainian citizens to freely determine and apply their mother tongue, lullaby language, family language, language of instruction, language of communication with the simultaneous use of the Ukrainian language as the state language; e) formation of intercultural tolerance, formation of a multicultural balance in the context of formation of Ukrainian society as a multicultural one, of prospects of its integration into the European and world socio-cultural and educational space.

The state language policy is characterized by a number of provisions, the most important of which are enshrined in the Constitution of Ukraine, the laws of Ukraine «On Ensuring the Functioning of the Ukrainian

¹⁸ Рішення Конституційного Суду України (справа про застосування української мови) № 10-рп/99 від 14.12.1999 р. // URL: zakon.rada.gov.ua/laws/show/ v010p 710-99

Language as the State One»¹⁹, «On Ratification of the European Charter for Regional or Minority Languages»²⁰, a decision of the Constitutional Court of Ukraine (case concerning the use of the Ukrainian language) dated 14.12.1999, #10-rp/99²¹, the Council of Europe Framework Convention for the Protection of National Minorities (as regards languages of national minorities) of 1 February 1995²², the Hague Recommendations on the Rights on National Minorities for Education adopted under the aegis of the OSCE in October 1996²³, the European Charter for Regional or Minority Languages²⁴, the International Covenant on Economic, Social and Cultural Rights²⁵, the European Social Charter²⁶, the International Covenant on Civil and Political Rights²⁷, etc. The Concept of State Language Policy, adopted by the Decree of the President of Ukraine, defines the strategic priorities of the formation of the national language space in all spheres of life of the Ukrainian society, the full functioning of the Ukrainian language as a guarantee of preservation of the identity of the Ukrainian nation and of consolidation of society²⁸. In this case, legal and regulatory provisions of domestic legislation and norms of international law proceed from the fact that: a) Ukraine has formed as a democratic, legal, social state, the borders of which are recognized by the international community; b) the name of the Ukrainian state is determined by the titular ethnos – the Ukrainians, which was formed historically, struggling for many centuries for its own statehood and independence; c) the Ukrainian ethnos forms an absolute majority of the population of the country; it has traditions, customs, rites, culture and language existing for centuries; d) the status of the Ukrainian language as

¹⁹ Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

²⁰ Про ратифікацію Європейської хартії регіональних мов або мов меншин. Закон України № 802-ІУ від 15.05.2003 р. // URL: zakon.rada.gov.ua/laws/show/802-15

²¹ Рішення Конституційного Суду України (справа про застосування української мови) № 10-рп/99 від 14.12.1999 р. // URL: zakon.rada.gov.ua/laws/show/v010p710-99

²² Рамкова Конвенція Ради Європи про захист національних меншин в частині мов національних меншин від 1 лютого 1995 р. // URL: zakon.rada.gov.ua/laws/show/995_055

²³ Гаазькі рекомендації щодо прав національних меншин на освіту, прийнятих під егідою ОБСЄ у жовтні 1996 р. // URL: <https://www.osce.org/uk/hcnm/32194?download=true>

²⁴ Європейська хартія регіональних мов або мов меншин // URL: zakon0.rada.gov.ua/laws/show/994_014

²⁵ Міжнародний пакт про економічні, соціальні і культурні права // URL: zakon0.rada.gov.ua/laws/show/995_042

²⁶ Європейська соціальна хартія // URL: zakon0.rada.gov.ua/laws/show/994_062

²⁷ Міжнародний пакт про громадянські і політичні права // URL: zakon0.rada.gov.ua/laws/show/995_043

²⁸ Про концепцію державної мовної політики. Указ Президента України від 15 лютого 2010 р. // URL: <https://zakon.rada.gov.ua/laws/show/161/2010/stru>

the state one is legislatively defined, which means its free functioning in all spheres of public life, in information space, public administration, etc. as well as allows to consider the Ukrainian language as a social and legal phenomenon which, having a number of organically inherent functions, is directed at the formation of a person as a national-linguistic personality, the consolidation of the Ukrainian nation as a titular one, the formation of a rule-of-law state and civil society²⁹.

Regulatory provisions of the Laws of Ukraine «On Education,» «On Preschool Education,» «On Extracurricular Education,» «On General Secondary Education,» «On Higher Education,» «On Culture,» «On Cinematography,» «On Information,» «On Television and Radio Broadcasting,» «On Information Agencies,» «On the Procedure for Covering the Activities of Public Authorities and Local Authorities in Ukraine by the Mass Media,» «On National Minorities in Ukraine,» etc, determine the peculiarities of the use of languages in the priority areas of social relations.

The official interpretation of the provisions of Article 10 of the Constitution of Ukraine on the use of the state language by state authorities and local self-government bodies and its use in the educational process at educational institutions of Ukraine³⁰ given by the constitutional court of Ukraine states that Ukrainian as the state language is a compulsory means of communication throughout the territory of Ukraine in the exercise of powers by public authorities and local self-government bodies (the language of normative acts, record keeping, documentation, etc), as well as in other public spheres of life activities, which are determined by law. At the same time, the Constitutional Court of Ukraine noted that the language of instruction at pre-school, general secondary, vocational and higher state and communal educational institutions of Ukraine is the Ukrainian language.

According to clause 5 of the Law of Ukraine «On Ratification of the European Charter for Regional or Minority Languages»³¹, the application of the provisions of the European Charter for Regional or Minority Languages, measures aimed at the adoption of the Ukrainian language as the state language, its development and functioning in all spheres of

²⁹ Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

³⁰ Рішення Конституційного Суду України (справа про застосування української мови) № 10-рп/99 від 14.12.1999 р. // URL: zakon.rada.gov.ua/laws/show/v010p710-99

³¹ Про ратифікацію Європейської хартії регіональних мов або мов меншин. Закон України № 802-ІУ від 15.05.2003 р. // URL: zakon.rada.gov.ua/laws/show/802-15

public life in the whole territory of Ukraine should not be considered as hindering or threatening the preservation or development of a language.

The Fundamental Law, stating that the Ukrainian language is the state language of Ukraine (Article 10), declares only general provisions; it does not specify specifics, requirements or peculiarities of the practical use of the Ukrainian language as the state language in Ukraine, of minority languages (languages of national minorities) as means to meet the humanitarian and cultural needs of persons belonging to national minorities. The above-mentioned circumstance made it necessary, as is known, for the domestic legislator to turn to the legal and regulatory support of the practice of functioning of languages in Ukraine; as a result, the law of Ukraine «On Ensuring the Functioning of the Ukrainian Language as the State One» has recently been adopted³².

The aforementioned norms of domestic and international law are decisive in the development and implementation of the state language policy in Ukraine.

4. International Experience in the Implementation of State Language Policy

The question of the use, functioning and protection of languages is regulated by a number of international legal documents, which define fundamental ideas, principles and provisions for the implementation of language policy. Thus, for example, one of the fundamental principles directly related to the protection of human rights to the freedom of choice of the language of communication is the principle of the prohibition of discrimination on the basis of language, the legal and regulatory requirements of which are reflected in the well-known international legal acts: the European Social Charter³³, The International Covenant on Economic, Social and Cultural Rights³⁴, the International Covenant on Civil and Political Rights³⁵, the Convention for the Protection of Human

³² Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

³³ Європейська хартія регіональних мов або мов меншин // URL: zakon0.rada.gov.ua/laws/show/994_014

³⁴ Міжнародний пакт про економічні, соціальні і культурні права // URL: zakon0.rada.gov.ua/laws/show/995_042

³⁵ Міжнародний пакт про громадянські і політичні права // URL: zakon0.rada.gov.ua/laws/show/995_043

Rights and Fundamental Freedoms³⁶, etc. Ukraine has ratified all the above-mentioned treaties.

The European practice of implementing language policy is to provide constitutional and legal safeguards to protect languages of the titular nations as official ones, which finds its implementation, in particular, in the norms about compulsory knowledge of it and fluency in it of civil servants, the conclusion of intergovernmental agreements in it, its use in the educational and information space as well as in creating the proper conditions for the comprehensive development of regional languages and languages of national minorities in accordance with the obligations of Ukraine regarding the European Charter for Regional and Minority Languages.

The European Charter for Regional or Minority Languages defines a «regional or minority language» as one that is traditionally used within a certain territory of a state as a geographical area, where such a language is a means of communication of a certain number of persons, which justifies the implementation of various protective and incentive measures aimed at its (language) preservation and development³⁷.

The aforementioned document does not link the recognition of a language a regional one with a certain percentage of minority representatives in the general population of the respective administrative-territorial unit, nor does it foresee the adoption of special decisions by local government bodies (united territorial communities) on the definition of territories for the use of regional languages. At the same time, regional or minority languages include languages, some of which are threatened with extinction, which provides, in accordance with the Charter, for the implementation of appropriate safeguard and incentive measures.

An important issue of linguistic policy is the definition of the status and procedure for the use of minority languages. At the international level, this issue is regulated, first of all, by the European Charter for Regional or Minority Languages³⁸. The provisions of the Charter, which was ratified by Ukraine in 2003, determine the procedure for the use of regional and minority languages in the spheres of education and culture,

³⁶ Конвенція про захист прав людини і основоположних свобод // URL: zakon0.rada.gov.ua/laws/show/995_004

³⁷ Європейська хартія регіональних мов або мов меншин // URL: zakon0.rada.gov.ua/laws/show/994_014

³⁸ Європейська хартія регіональних мов або мов меншин // URL: zakon0.rada.gov.ua/laws/show/994_014

in economic and social life, in the work of administrative bodies, the media, in the process of administration of justice, etc.

It is significant that, in the constitutional orders of most European countries, one official language is declared (Denmark, France, Austria, the Netherlands, etc). At the same time, legal norms are established on the inadmissibility of discrimination on the basis of language, the development of the official language and languages of national minorities is encouraged in accordance with the requirements of the legal equality of citizens as a defining principle of the state language policy.

In member states of the European Union, there is also, as is known, a constitutional practice of recognition several languages as the official ones, which is usually related to the historical conditions of the formation and development of the statehood of certain countries.

For example, in Belgium, the constitution provides for the freedom to apply French, Dutch and German languages, without imposing any of them as official. Instead, article 4 of the Belgian Constitution defines the legal principles of the existence of four linguistic regions: the Dutch-speaking one, the French-speaking one, the German-speaking one and the bilingual Brussels Capital Region³⁹.

A peculiar example of the recognition of official bilingualism is the Constitution of the Irish Republic, Article 8 of which recognizes Irish as the first official language, while English is the second official one.

In the Republic of Ireland, a multifunctional state body was established that coordinates, directs and controls the implementation of the language law, has a number of powers to advise government bodies and citizens on linguistic rights and responsibilities as well as on safeguards for their implementation⁴⁰.

Interesting is the linguistic experience of the Swiss Confederation, which, without being a member of the European Union, is closely integrated into the European market economy system, is a member of the Schengen zone. According to Articles 4, 18, 31, 33, 70 of the constitution of the above-mentioned state, the national languages are German, French, Italian and Rhaetian. Each canton has the right to choose one or more national languages. The administration, the police, courts and public

³⁹ Конституция Бельгии // URL: <https://worldconstitutions.ru/?p=157>

⁴⁰ Конституция Ирландии // URL: http://lib.rada.gov.ua/LibRada/static/LIBRARY/catalog/law/irland_constitut.html

schools use the aforementioned languages, and in addressing the federal government, one can use any national language⁴¹.

The experience of the Baltic States is also significant for Ukraine. In those states, the process of the establishment of the national languages as the state ones was promoted by relevant legislative requirements, which include, inter alia: a) language requirements for employment, certification of civil servants with the obligatory issue of the corresponding language certificate concerning the knowledge of the state language; b) formation of independent attestation commissions to determine the level of fluency of officials in the state language; c) the creation of a special body on linguistic issues, whose powers include training, raising the competence of civil servants and candidates for public office; d) development of qualification requirements, projects of educational programs for the study of the state language, etc. The functioning of the government bodies for monitoring the linguistic situation, the implementation of the legal and regulatory requirements for languages is also provided for by the state language policy of Latvia⁴², Lithuania⁴³ and Estonia⁴⁴.

Considerable attention was also paid to the questions of the development and implementation of short-term transitional educational programs, which, on the one hand, significantly intensified the processes of studying the state language, had a decisive influence on the establishment of statehood, and, on the other hand, led to some exacerbation of interethnic relations between the titular ethnos and national minorities, was accompanied by lasting emotional reaction of public opinion to recent legislative proposals concerning the questions of the settlement of the language issue.

In general, member states of the European Union tend to have constitutional requirements for the prevention of discrimination on the basis of language, the desire to preserve linguistic diversity through the development of the state language and languages of national minorities up to granting the status of the official language to two or even more languages. An established norm stipulates that the right of peoples to preserve their mother tongue, to study it is a prerequisite for taking into account the interests of autochthonous linguistic communities, for

⁴¹ Конституция Швейцарской Конфедерации // URL: <http://www.ditext.com/swiss/constitution.html>

⁴² Конституция Латвийской Республики // URL: http://www.pravo.lv/likumi/01_klr.html

⁴³ Конституция Литовской Республики // URL: <https://www.wipo.int/edocs/lexdocs/laws/ru/lt/lt045ru.pdf>

⁴⁴ Конституция Эстонской Республики // URL: http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/estonia/estoni-r.htm

promoting mutual understanding, ensuring the multicultural state of the European community, its tolerance and social stability.

5. Legal and Regulatory Principles of Ensuring Functioning of the Ukrainian Language as the State One

The innovative potential of the law «On the Functioning of the Ukrainian Language as the State One» that has recently been adopted by the Verkhovna Rada of Ukraine consists, first of all, in developing a legal mechanism for ensuring the functioning of the Ukrainian language as the state one by finding a fair balance between the nation-building potential of the titular nation and the protection of the language rights of minorities. This, on the one hand, allows to improve the legal and organizational principles of the use of the state language, its functioning and protection in Ukraine, and, on the other hand, to promote the free development of other languages – regional or minority languages in accordance with the provisions of the Constitution of Ukraine, the European Charter for Regional Languages or Minority Languages as well as the Council of Europe Framework Convention for the Protection of National Minorities.

The legal mechanism developed by the legislators includes, in particular:

– implementation of a balanced policy in the language sphere concerning the implementation of the constitutional guarantees of preserving the state language as an instrument of unity of society, the provisions of Conclusion⁴⁵ and Recommendation⁴⁶ of the European Commission for Democracy through Law, Recommendation of the European Parliament and the Council of the European Union⁴⁷ in regard to finding more acceptable ways of confirming the supremacy of the Ukrainian language as the only state one and strengthening its role in the Ukrainian society, strengthening its state-building and consolidation functions, enhancing its role in ensuring the territorial integrity and national security of Ukraine;

⁴⁵ Венеціанська комісія оприлюднила висновок щодо українського закону про освіту // URL: <https://www.dw.com/uk//a-41749149>

⁴⁶ Венеціанська комісія офіційно опублікувала рекомендації Україні щодо закону про освіту // URL: <https://www.unian.ua/politics/2292364-venetsianska-komisiya-ofitsiyno-opublikovala-rekomendatsiji-ukrajini-schodo-zakonu-pro-osvitu.html>

⁴⁷ Рекомендації 2006/962/ЄС Європейського парламенту та Ради (ЄС) “Про основні компетенції для навчання протягом усього життя” від 18 грудня 2006 р. // URL: https://zakon.rada.gov.ua/laws/show/994_975

– the use of the Ukrainian language as the state language, of the languages of national minorities in the main spheres of life of Ukrainian society, in the work of state authorities, local authorities, in legal proceedings, economic and social activities, education, science, etc. The state status of the Ukrainian language is determined by the self-determination of the Ukrainian nation; it is an inalienable element of the constitutional system of Ukraine as a unitary state; it implies the mandatory use of it throughout the territory of Ukraine. At the same time, the Ukrainian language as the state one does not apply to the sphere of private communication and of undertaking religious rites⁴⁸;

– definition of the rights and obligations of authorities, officials in the territory of Ukraine regarding the use of the Ukrainian language as the state one as well as of regional languages, languages of national minorities in terms of ensuring the legal rights and interests of every citizen of Ukraine regarding the use of the Ukrainian language as the state one and languages of national minorities as a means of meeting humanitarian and cultural needs⁴⁹;

– implementation of the State Program for Assisting Ukrainian Language Acquisition through establishing and ensuring the activities of the system of institutions of pre-school, complete secondary, out-of-school, professional (vocational), professional advanced, higher education, adult education, of a network of state, communal courses for the study of the state language, of non-formal and informal education as well as through the development of subjects of educational activity⁵⁰;

– guaranteeing the right of individuals belonging to indigenous peoples, national minorities to study the language of the respective indigenous people or national minority of Ukraine at communal institutions of preschool or primary, general secondary education or through national cultural societies⁵¹;

– legal and regulatory support of the activity of bodies of state power in relation to presentation of qualification requirements to officials concerning the level of command of the state language, support and

⁴⁸ Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

⁴⁹ Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

⁵⁰ Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

⁵¹ Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

protection of the Ukrainian language and languages of indigenous peoples, national minorities in Ukraine, promotion of their development. To this end, the law provides for the establishment of a National Commission on the Standards of the State Language, which will approve the standards of the language, check the level of its command when acquiring citizenship or occupying government positions as well as develop requirements for language proficiency, standards for certification of language proficiency with levels (from A1 to C2), etc.⁵²;

- establishment of tolerance principles of the life activities of Ukrainian society, normalization of possible conflict situations with regard to protection of the rights of Ukrainian citizens to free choice and use of the language regardless of ethnic origin, national-cultural identity, place of residence, religious beliefs, etc;

- legal and regulatory assistance to the preservation of territorial integrity, unity and national security of Ukraine, to the development of cultural relations between different language groups of Ukraine;

- creation of appropriate conditions, forms and means of teaching and learning Ukrainian, regional and minority languages;

- education of respectful attitudes to the dignity of man, his rights and freedoms, language and culture, national traditions.

Language self-determination is guaranteed by the right for protection at the relevant state bodies and at court of rights and legitimate interests of a person and citizen, for appeal at court against decisions, actions or inactivity of state authorities and local self-government bodies, their officials and workers, legal entities and individuals. At the same time, measures to protect languages of national minorities of Ukraine should not narrow the scope of the use of the state language or reduce the need for its study.

CONCLUSIONS

1. State language policy can be defined as a set of measures of state authorities and local self-government bodies (united territorial communities) concerning articulation of linguistic interests of different groups of society, their advocacy and implementation by preserving or changing social conditions, norms of language functioning, as well as prevention of language conflicts in the country.

⁵² Про забезпечення функціонування української мови як державної. Закон України № 2704-УІІІ від 25 квітня 2019 р. // Голос України. 2019. 16 травня.

The state language policy in Ukraine is based on polylinguistic principles in accordance with the principles set forth in the United Nations International Covenant on Civil and Political Rights, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, and the Framework Convention for the Protection of National Minorities.

The implementation of the state language policy is subordinated to the tasks of establishing harmonious social relations in the sphere of the use of languages in Ukraine by meeting linguistic, cultural, educational, informational needs, observing human and civil rights and freedoms in Ukraine. The state contributes to the development of multilingualism, the study of languages of international communication, especially those that are the official languages of the United Nations, the Council of Europe, UNESCO and other international organizations.

2. The law «On Ensuring the Functioning of the Ukrainian Language as the State One» recently adopted by the Verkhovna Rada of Ukraine contributes to improving the legal and regulatory framework of the national language space on the basis of polylinguism – the free functioning of the entire diversity of languages in Ukraine in accordance with their status – state, regional or minority. The legal and regulatory regulation of the domestic language space, of the main spheres of life activities of Ukrainian society in accordance with its basic functions – adaptation, integration, goal attaining and reproduction of the structure – allows to avoid opposition, and especially the opposition to the mentality of the nation, its outlook of individual components of everyday consciousness, including those formed under the influence of external informational propaganda influences, hybrid wars, annexation of the territory, etc. The free development, use and protection of all the diversity, wealth of languages that have historically developed in Ukraine and are traditionally used contributes to the formation of a polylinguistic state of Ukrainian society. Polylinguistic language culture is the underlying foundation for the formation of the spiritual atmosphere of Ukrainian society, harmony and understanding, the consolidation of society, its establishment as a single social organism.

Status-forming features of Ukrainian as a state language are represented by its consideration as: a) the titular language of the Ukrainian nation; b) a factor of the national identity and state self-determination of the people of Ukraine; c) an inseparable element of the constitutional

system of Ukraine as a unitary state and of the national security of Ukraine.

In the constitutional and legal sense, the terms «state language» and «official language» have the same content, status and functions.

3. The European Charter for Regional or Minority Languages does not use the term «state language» at all. Instead, the notion of «official language» is used in the sense that corresponds to the language of the ethnic group, which gave the name to the state. Accordingly, it seems expedient to consider the term «state language» to correspond to the notion «official language» commonly accepted in European and international law. The aforesaid is identified on several grounds: a) the bearer of the language – the titular nation that establishes, forms and consolidates the state of the Ukrainian people; b) the natural right of the ethnic group as native speaker for the special status of the Ukrainian language; c) the state of the Ukrainian people as an embodiment of the state-building intentions of the Ukrainian nation, of its centuries-old desire to assert its own statehood; d) the initial factor of the state-building process, which is enshrined in the Fundamental Law as the doctrinal position of state-building; e) legal identification of Ukraine as a state with the titular Ukrainian nation.

The fixation by the Constitution of Ukraine of the state status of the Ukrainian language confirms this requirement as the defining principle norm, which, on the one hand, determines the essential principles of the Ukrainian state-building, the existence of the people, and on the other hand, needs additional protection. This is manifested in a special status of the Ukrainian language (*de facto*) and the constitutionally enshrined procedure for ensuring functioning and protection, making changes (*de jure*).

4. The constitutional requirement for the functioning of the Ukrainian language in all spheres of public life determines its specific status – to serve the Ukrainian state as a unified means of linguistic communication. This circumstance is at the same time a sign and criterion for the identification of the Ukrainian state with the titular ethnic group – the Ukrainian nation.

5. In regard to the development of cultural relations between different language groups as well as the promotion of consolidation of Ukrainian society, the protection of the rights of citizens to free choice and use of the language regardless of ethnic origin, national and cultural identity, place of residence, religious beliefs, etc, becomes of paramount importance. Consolidation potential is also seen in overcoming linguistic

discrimination, social and legal safeguards to avoid establishing any privileges or restrictions of human rights on the basis of communication in a minority language.

6. Mother tongue cannot be considered a regional or minority language, as it is identified by each individual person on the basis of his/her command of it as a child, or, alternatively, of subjective perception of the language of communication as native. Similarly, communication in the «family language», «lullaby language», etc, is a private affair of every citizen since those languages cannot be considered regional or minority languages.

The lullaby and family language, the native language, the language of private communication in accordance with the constitutional status of the Ukrainian language as the state one should be considered as an integral, guaranteed by the state personal right of a citizen of Ukraine to communicate in accordance with the environment of stay – public or private.

Every citizen of Ukraine has the right to communicate freely in any language (state, regional, minority language, lullaby, family, native one, etc) regardless of ethnic origin, national-cultural identity, place of residence, etc.

7. The European Charter for Regional or Minority Languages uses the term «minority languages», the sense of which is broader than, say, «regional languages» or «languages of national minorities», since under certain conditions at the level of a separate territory (region), protection may be needed by the Ukrainian language. The mentioned document does not foresee the use in the legal space of one state of the terms «state language» and «official language» at the same time, considering them as phenomena of the same linguistic status. This explains to a certain extent the situation regarding the absence of the term «state language» in the legal documents of the Member States of the European Union, and in the Ukrainian legislation – of the term «official language».

8. The meaningful and functional characteristics of the Ukrainian language as the state one, its status, the completeness of constitutional and legal regulation allow also to consider the Ukrainian language as a language of interethnic communication both in Ukraine and in the world, where millions of ethnic Ukrainians live in compact groups – in the

Russian Federation, member states of the European Union, the United States of America, Canada, Asia and Australia, etc⁵³.

9. The main tendencies of the legal regulation of the state language policy in Ukraine are: a) the legislator's desire to reach consensus, a public compromise between the establishment of the Ukrainian language as the state one, on the one hand, and regional and minority languages, on the other hand; b) recognition of the right of every person belonging to a national minority to study the language of this minority; c) efforts to ensure the language differentiation of the education system; d) the desire to maintain the dynamic balance of interethnic relations, prevent ethnic conflicts, strengthen statehood, democracy, and ensure the socio-political unity of Ukrainian society; e) preservation of interethnic peace and tolerance, application of flexible, regionally differentiated approaches; e) awareness of the challenges of globalization in terms of the formation of a multicultural society in Ukraine. These tendencies confirm the well-known thesis: modern state-building processes are impossible beyond further regulatory and legal strengthening the constitutional status of the Ukrainian language as the state one.

SUMMARY

The essence, the basic principles and tasks of the state language policy in Ukraine, the tendencies of its legal and regulatory support and development are substantiated. Based on the national traditions of state formation, on European experience, the main ways of harmonizing linguistic relations by means of legal and regulatory support of the status of the Ukrainian language as the state one, on the one hand, and of regional and minority languages, on the other hand, in accordance with the established provisions of the polylinguistic language model are considered. Emphasis is laid on the consolidation potential of the Ukrainian language as the state one, on the possibilities of its realization as a means and resource of social changes, the determining factor and the main feature of the identity of the Ukrainian nation, on the maintenance of territorial integrity and national security, unity of society, on the formation of a positive language image of Ukraine in the European and world political and legal space.

⁵³ Українська правова думка в діаспорі // Мала енциклопедія етнодержавознавства / НАН України. Ін-т держави і права ім. В.М. Корецького; Редкол.: Ю.І. Римаренко (відп. ред.) та ін. – К.: Довіра: Генеза, 1996. – 942 с.

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