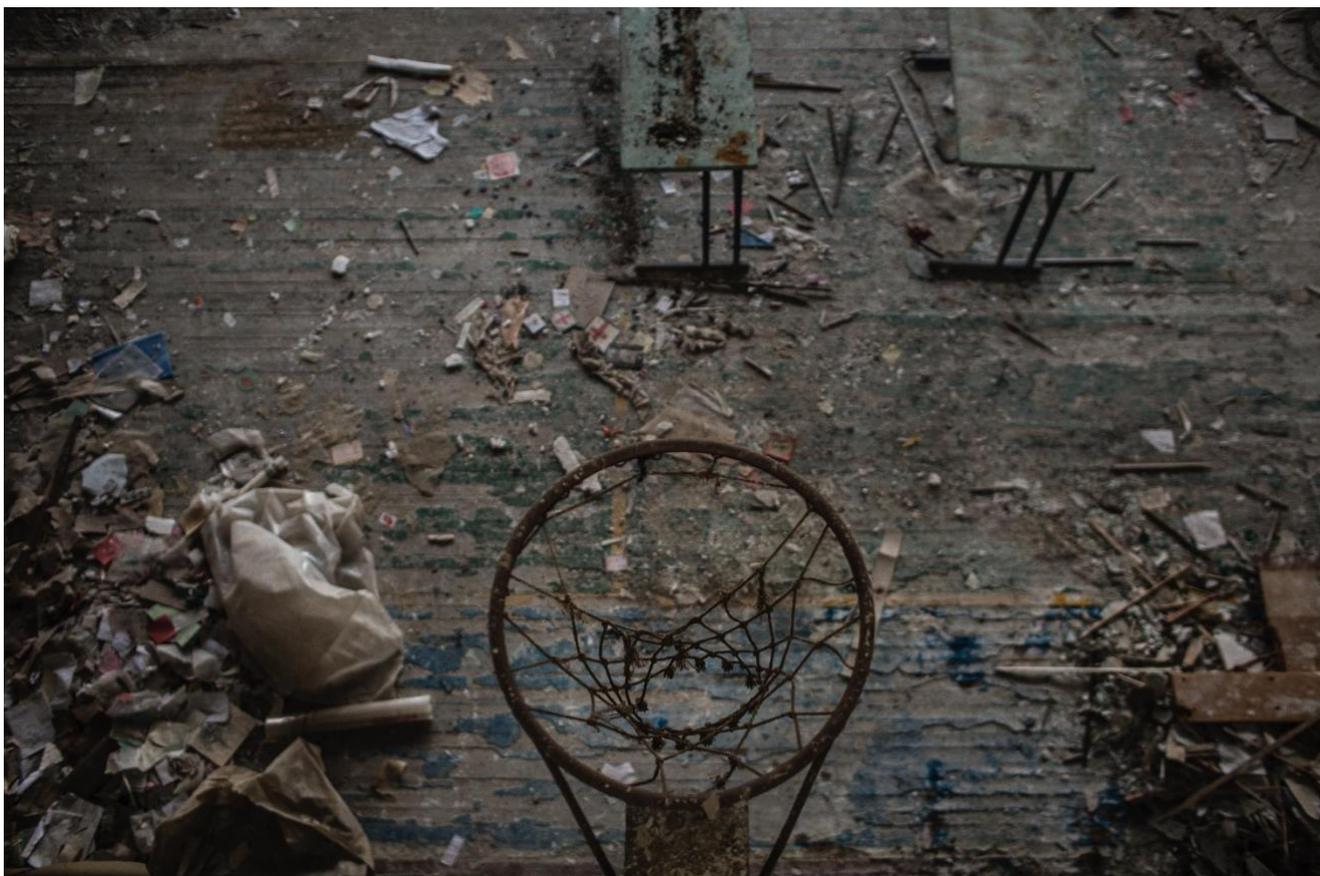


LEGAL FACTSHEET

The right to education in Ukraine



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The right to education in Ukraine

This legal factsheet accompanies the Right to Education Initiative's multimedia essay [Caught in the crossfire: The right to education in eastern Ukraine](#). It has been made available for informational purposes only and should not be construed as legal advice. For enquiries, contact info@right-to-education.org

1. National framework

1.1 Constitution

Article 53 of the **Constitution of Ukraine**¹ guarantees the right to education, stating: 'Everyone shall have the right to education.' This includes the right to *free* and *compulsory* education up to the secondary level, and accessible and free public education at all other levels, including for pre-primary, vocational, and higher education. Access to public 'higher education and communal educational establishments' is on a competitive basis.

The Constitution also provides that: 'Citizens belonging to national minorities shall be guaranteed, in accordance with law, the right to education in their native language, or to study their native language at the state and communal educational establishments or through national cultural societies.'

The Constitution further protects various other rights important for the enjoyment of the right to education, principally the right to non-discrimination and equality before the law (Article 24), the right to work, including the right to vocational education (Article 43), and the rights to access justice (Article 55) and to an effective remedy (Article 56).

The Constitution specifies in Article 10 that the national language of Ukraine is Ukrainian. However, Russian and other minority languages can be freely used and developed, and will be subject to protection.

In terms of conflict and other emergencies the Constitution provides in Article 17 that: 'The Armed Forces of Ukraine and other military formations shall not be used by anyone to restrict the rights and freedoms of citizens'.

The Constitution permits derogations to the right to education (but not the rights to non-discrimination and the rights to access to justice and an effective remedy) under Article 64. This means that in a state of emergency or when martial law is in place, the government may restrict the right to education for a defined period of time.

¹ Constitution of Ukraine (1996, last amended 2019) No. 254K/96-BP. Available, in English, at: <http://www.ccu.gov.ua/en/kategoriya/legal-documents> (Accessed 28 May 2020.)

1.2 Education laws

In September 2017, Ukraine enacted the **Law on Education**.² The law provides a framework for the implementation of the constitutional right to education, including the powers and responsibilities of state authorities, the structure of the education system, and the entitlements of citizens and non-citizens regarding the right to education.

Part I of the Law on Education elaborates the content of the right to education, which includes:

- The right to ‘high-quality’ and ‘affordable’ education, including ‘tuition-free’ education at: preschool, complete general secondary, vocational education and training, pre-tertiary vocational, and higher education ((Articles 3 (1) and 4).
- Non-discrimination in access to education, with protected classes being: age, sex, race, health status, disability, nationality, ethnic origin, political, religious or other views, colour, place of residence, language, origin, social and material position, criminal record, as well as other circumstances and characteristics (Article 3 (2)).
- The right to education of all different levels and types (Article 3 (3)).
- The right to access educational materials (Article 3 (4)).
- The social protection of education seekers and equal access to education for persons from ‘socially vulnerable groups’ (Article 3 (5)).
- The obligation of the state to create the necessary conditions so that people with special educational needs can obtain an education, including the identification and correction of ‘facts’ that prevent such people from exercising their rights (Article 3 (6)).
- The right of foreigners and stateless persons to obtain education in Ukraine in accordance with legislation and international agreements (Article 3 (7)).
- The right to education of refugees on a par with citizens of Ukraine (Article 3 (8)).
- That the right to education cannot be restricted by law (Article 3 (9)).

Article 6 of Part I also specifies the various principles underpinning state educational policy, including that education should be:

- person-centred and humanistic
- of decent quality
- inclusive
- available in diverse forms and that children and parents should be free to choose whichever form of education suits them
- transparent and accountable

Article 6 also specifies the social aims of education, specifically that education should encourage:

- citizenship, respect for democracy, and respect for the rule of law
- respect for human rights
- respect for the environment

² The Law of Ukraine “On Education” dated 5 September 2017 No. 2145-VIII. Available, in English, at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2017\)047-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2017)047-e) (Accessed 28 May 2020.)

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It also encourages the: ‘formation of patriotism, respect to cultural values of the Ukrainian nation, its historical and cultural heritage and traditions’.

Part II of the Law on Education explains the structure of the education system, setting out the duration, goals, responsibilities of relevant actors and bodies with regard to the various levels and types of education, as well as identifying further relevant sources of law or those state bodies empowered to formulate implementing laws. The Law provides for the following different types and levels of education:

- preschool education
- complete general secondary education
- out-of-school education
- specialised education
- vocational education and training
- pre-tertiary vocational education
- higher education
- adult education, including postgraduate education

Articles 19 and 20 ensure the right to education of people with special educational needs and the right to inclusive education.

Article 21 is on ‘specialised education’ which according to subsection (4) includes a type of education known as ‘military education’ which involves, *inter alia*:

pre-conscription training that involves gaining initial general military and special competences; training in military technical and military medical specialities; professional military training of rank and file, non-commissioned (enlisted) personnel of compulsory military service and military service under contract, which is performed based on the basic, filed-specific secondary, vocational education and training of pre-tertiary vocational education training of non-commissioned (enlisted) contracted military personnel alongside with obtaining higher education, which is performed on the basis of complete general secondary education; officer’s training which is performed based on the complete general secondary education, vocational education and training, professional pre-higher or higher education with a goal to obtain respective levels of higher education and levels of military education (tactical, operational-tactical or operational-strategic).

The principles of military education are further specified in the **Law on Military Service Duty and Military Service**,³ and special laws.

Part III of the Law on Education concerns the legal status, organisation, and functioning of educational institutions.

Part IV concerns educational standards, programmes, qualifications, and certificates.

³ The Law of Ukraine “On Military Service Duty and Military Service” dated March 25 1992 No. 2232-XII. For further information on military service and conscription, see for example: <https://www.refworld.org/pdfid/5890825c4.pdf> (Accessed 3 June 2020.)

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Part V concerns quality assurance, for instance accreditation, monitoring and audits, teacher certification.

Part VI sets-out the rights and obligations of various education stakeholders. On rights-holders (or 'education-seekers') Article 53 (1) states that students are entitled to: 'safe and harmless conditions of study, care and labour...protection, during the educational process, from humiliation of honour and dignity, any forms of violence and exploitation, discrimination on any grounds, propaganda and campaigning that are harmful to health of the education seeker', as well as: 'protection of the place of study during compulsory military service and/or mobilization, during a special period'.

Educational staff are entitled to: 'safe and harmless conditions of work', as stipulated by Article 54 (1). Education staff are also expected to: 'form in education seekers realization of the need to observe the Constitution and Laws of Ukraine, protect sovereignty and territorial integrity of Ukraine', in addition to developing, 'respect to the state language and state symbols of Ukraine, national historical, cultural values of Ukraine, careful attitude to the historical and cultural heritage of the state' (Article 54 (2)). Education must also teach, 'mutual understanding, peace, cohesion among all nations, ethnic, national and religious groups' (Article 54 (2)).

Part VII concerns the working conditions and professional development of educational and academic workers.

Part VIII concerns the powers and management of various state bodies regarding education.

Part IX concerns educational infrastructure

Part X concerns education financing.

Part XI is on international cooperation.

Part XI concerns entry into force and transitional provisions.

Other relevant education laws:

- The Law of Ukraine "On Complete General Secondary Education" dated 16 January 2020 No. 463-IX
- The Law of Ukraine "On Higher Education" dated 1 July 2014 No. 1556-VII
- The Law of Ukraine "On Preschool Education" dated 11 July 2001 No. 2628-III
- The Law of Ukraine "On the Protection of Childhood" dated 26 April 2001 No. 2402-III
- The Criminal Code of Ukraine dated 5 April 2001 No. 2341-III
- The Law of Ukraine "On Vocational Education" dated 10 February 1998 No. 103/98-BP
- The Code of Ukraine on Administrative Offences dated 7 December 1984 No. 8073-X
- The Order of the Cabinet Ministers of Ukraine "On Establishing State Institutions" dated 27 December 2017 No. 987-p

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1.3 Language provisions

In late 2017, the Law on Education was enacted: it provides a framework for the language of instruction in Ukrainian schools, was enacted. Article 7 of the law caused considerable [controversy](#)⁴ due to the fact that it reduces the right of minorities to be taught and to learn in languages other than Ukrainian. The law effectively treats linguistic minorities within Ukraine differently, separating them into three categories: indigenous peoples, such as the Crimean Tatar, speaking indigenous languages; minorities who speak a European Union (EU) language; and minorities speaking a non-EU language, such as Russian.

Should Article 7 enter into force in September 2020 as planned, national minorities will only be able to learn in non-EU minority languages in pre-school and primary schools, whilst also being taught the national language, Ukrainian. For primary schools teaching in EU languages, there is a three-year transition period that does not apply to non-EU languages, like Russian.

At the secondary level most subjects will, by default, be taught in Ukrainian, with the exception of certain classes, such as national minorities' language and literature classes. There is an exception for one or more subjects to be taught in EU-languages, but not in non-EU languages. This means, for example, that in existing Russian language secondary schools, all subjects will have to be taught in Ukrainian or an EU language, except for lessons on Russian language and literature.

This change has elicited strong responses from governments, including in Hungary and Russia. This led the Ukraine government to submit the provision to the European Commission For Democracy Through Law (Venice Commission), an advisory body on human rights, democracy, and the rule of law, to assess whether it was compatible with Ukraine's international legal obligations regarding the rights of national minorities.

In its opinion,⁵ the Venice Commission, whilst stating that it is legitimate for Ukraine to promote the strengthening of the state language, as a way to address existing inequalities and to facilitate more effective integration of people belonging to national minorities into Ukrainian society, it nonetheless highlighted various human rights issues. The Venice Commission said that restricting the language of instruction beyond the primary level to only Ukrainian, 'could result in a substantial diminution in the opportunities available to persons belonging to national minorities to be taught in their languages, which would amount to a disproportionate interference with the existing rights of persons belonging to national minorities'. The Venice Commission also stated:

Although the Venice Commission is not in a position to assess all factual elements that play a role in the language education policy of Ukraine, in its view, in the light of all the elements mentioned in the previous paragraphs, it is highly likely that the less favourable treatment of the Russian language (and other languages which are not official languages of the European

⁴ See, for example, Reuters' *Criticism of Ukraine's language law justified: rights body*. Available at <https://www.reuters.com/article/us-ukraine-language/criticism-of-ukraines-language-law-justified-rights-body-idUSKBN1E227K> (Accessed 8 July 2020.)

⁵ European Commission for Democracy Through Law (Venice Commission). Ukraine - The Law on Education adopted by the Verkhovna Rada on 5 September 2017 (for issue of language, see Article 7 and Concluding Remarks and Transitional Provision N° 18). (CDL-REF(2017)047-e.) Available, in English, at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)030-e#](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)030-e#) (Accessed 28 May 2020.)

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Union), in Article 7 paragraph 4, is not justifiable in the light of the principle of non-discrimination,'

In 2019, Ukraine adopted the Law on State Language, which was also put to the Venice Commission for an opinion on whether it complies with Ukraine's international human rights obligations. The Commission found that the issues identified in its previous opinion had not been sufficiently addressed, and that, as things stand, the unequal treatment of Russian language (along with other non-EU languages) compared to EU languages and indigenous languages is 'not justifiable in the light of the principle of non-discrimination'.

In 2019, Ukraine adopted the Law on State Language, which was also put to the Venice Commission for an opinion on whether it complies with Ukraine's international human rights obligations. The Commission found⁶ that the issues identified in its previous opinion had not been sufficiently justified or addressed, and that, as things stand, the Russian language (along with other non-EU languages) is treated unequally compared to EU languages, creating a 'hierarchy' at secondary level.

In March 2020, Ukraine enacted the Law on Secondary Education⁷ which clarifies Article 7 of the Law on Education, and sets out three models for education depending on language. The law specifies that for schools in areas where Russian is predominantly spoken, from Grade Five students will have 80% of their study time in Ukrainian.

In its conclusions the Venice Commission warned: 'In order to avoid the language issue becoming a source of interethnic tensions within Ukraine, it is of crucial importance that Ukraine achieve an appropriate balance in its language policy.'

Other relevant language laws

- The Law of Ukraine "On Ensuring the Functioning of Ukrainian as the State Language" dated 25 April 2019 No. 2704-VIII.
- The Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages" dated 15 May 2003 No.802-IV⁸
- The Law of Ukraine "On Principles of State Language Policy" dated 3 July 2012 No. 5029-VI.⁹

⁶ Venice Commission. Ukraine - Opinion on the Law on Supporting the Functioning of the Ukrainian Language as the State Language, adopted by the Venice Commission at its 121st Plenary Session (Venice, 6-7 December 2019). (CDL-AD(2019)032-e.) Available, in English, at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)032-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)032-e) (Accessed 28 May 2020.)

⁷ The Law of Ukraine "On Complete General Secondary Education" dated January 16, 2020 No. 463-IX. Information on the law is available at <https://decentralization.gov.ua/en/news/12399> (Accessed 4 June 2020.)

⁸ Available, in Ukrainian, at <https://zakon.rada.gov.ua/laws/show/802-15> (Accessed 4 June 2020.)

⁹ Available, in English, at https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=&p_isn=92814&p_classification=01 (Accessed 4 June 2020.) This Law was found unconstitutional in Decision of the Grand Chamber of the Constitutional Court of Ukraine No. 2-r/2018 dated February 28, 2018 in the case upon the constitutional petition of 57 People's

1.4 Specials laws applying in the non-government-controlled areas (NGCAs)

The Law of Ukraine “Relating to the Place of Temporary Residence and the Right to Education”¹⁰ provides in Article 7 (12) that Ukrainian citizens who reside in the ‘temporarily occupied territory or relocated from it’ have the right to pursue their education in other parts of Ukraine, for which the state will pay and provide accommodation in dormitories.

Other relevant laws

- The Law of Ukraine "On Amendments to Article 7 of the Law of Ukraine "On Ensuring Civil Rights and Freedoms, and the Legal Regime on the Temporarily Occupied Territory of Ukraine" Regarding the Right to Education" dated May 6 2014 No. 1237-VII
- The Order of Ministry of Education of Ukraine “On Temporary Proceeding of Transfer of Students, Postgraduates and Doctoral Students from Higher Educational Institutions and Scientific Institutions Located in the Temporarily Occupied Territory of Ukraine” dated 7 May 2014 No. 556
- The Provision of the Ministry of Internal Affairs of Ukraine “On State Migration Service of Ukraine Centre of Social Integration of Refugees and Persons in Need of Complementary or Temporary Protection” dated 17 December 2015 No. 1586

1.4 Refugees, internally displaced persons, and migrants

- The Law of Ukraine “On Securing the Rights and Freedoms of Internally Displaced People” dated 20 November 2014 No. 1706-VII¹¹
- The Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” dated 20 October 2014 No. 1706-VII
- The Law of Ukraine “On the Legal Status of Foreigners and Stateless Persons” dated 22 September 2011 No. 3773-VI
- The Law of Ukraine “On Migration” dated 7 June 2011 No. 2491-III
- The Law of Ukraine “On Refugees and Persons that in Need of Complementary or Temporary Protection” dated 8 July 2011 No. 3671-VI
- The Ordinance of the Cabinet of Ministers of Ukraine “On Strategy on Integration of Internally Displaced Persons and the Introduction of Long-term Decisions on Internal Displacement for the Period of up to 2020” dated 15 November 2017 No. 909-p
- The Procedure of the Ministry of Education and Science of Ukraine “On Recognition of Documents on Secondary Level Education, Secondary Vocational Education and Professional Education Awarded by the Education Institutions of Other Countries” dated 5 May 2015 No. 504

Deputies on conformity of the Law of Ukraine “On the Principles of State Language Policy” to the Constitution of Ukraine.

¹⁰ The Law of Ukraine "On Amendments to the Law of Ukraine "On Ensuring Civil Rights and Freedoms, and the Legal Regime on the Temporarily Occupied Territory of Ukraine" Relating to the Place of Temporary Residence and the Right to Education" dated August 12, 2014 No. 1635-VII.

¹¹ Available, in Ukrainian, at <http://zakon.rada.gov.ua/laws/show/1706-18?lang=en> (Accessed 4 June 2020.)

1.5 Conflict

- The Order of the Minister of Defence of Ukraine “On the adoption of the Manual on the Application of the Rules of International Humanitarian Law in the Armed Forces of Ukraine” dated 11 September 2004 No.400, states: ‘As concerns children, international humanitarian law envisages the following: ... the right of children to receive an education shall be guaranteed.’¹²
- The Law of Ukraine “On the Protection of Childhood” dated 26 April 2001 No. 2402-III, which is amended by the Law of Ukraine “On Introducing Changes to Some Law Acts of Ukraine on Enhancing Protection of Children and Supporting Families with Children” dated 26 January 2016 No. 936-VIII, addresses the prohibition of the participation of children (including the recruitment, financing, material supply, and training) in hostilities and armed conflicts. It further establishes that the state shall take all necessary measures in order to prevent the recruitment and use of children in hostilities and armed conflicts, as well as to detect the recruitment of children and to release them from the military service.¹³

¹² For further information, see, for example, Human Rights Watch’s report *Studying Under Fire: Attacks on Schools, Military Use of Schools During the Armed Conflict in Eastern Ukraine*. Available at https://www.hrw.org/report/2016/02/11/studying-under-fire/attacks-schools-military-use-schools-during-armed-conflict#_ftn140 (Accessed 9 June 2020.)

¹³ For a comprehensive overview of how international humanitarian and criminal law have been domesticated in the Ukrainian legal system, see, for example, Global Rights Compliance’s report *The Domestic Implementation of International Humanitarian Law in Ukraine*. Available at <https://www.globalrightscompliance.com/uploads/e6f0ccd036b6f83ffe2b94f3e19983e0.pdf> (Accessed 9 June 2020.)

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2. International framework

Ukraine has ratified the following international and regional instruments relevant to the right to education under attack.

Ratification status of Ukraine to important instruments guaranteeing the right to education		
	Instrument	Ratified
U N I T E D N A T I O N S	International Convention on the Elimination of All Forms of Racial Discrimination (1966, ICERD)	7 March 1969
	International Covenant on Economic, Social and Cultural Rights (1966, ICESCR)	12 November 1973
	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008, OP-ICESCR)	-
	International Covenant on Civil and Political Rights (ICCPR, 1966)	12 Nov 1973
	Optional Protocol to the International Covenant on Civil and Political Rights (1966, OP-ICCPR)	25 July 1991
	Convention on the Elimination of All Forms of Discrimination against Women (1979, CEDAW)	12 March 1981
	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999, OP-CEDAW)	26 September 2003
	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990, ICRMW)	-
	Convention on the Rights of the Child (1989, CRC)	28 August 1991
	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2002, OPAC)	11 July 2005
	Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2011, OP3-CRC)	-
	Convention on the Rights of Persons with Disabilities (2006, CRPD)	4 February 2010
	Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006, OP-CRPD)	4 February 2010

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U N E S C O	Convention Against Discrimination in Education (1960, CADE)	19 December 1962
	Convention on Technical and Vocational Education (1989, CTVE)	-
	Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997)	14 April 2000
E U R O P E A N	Convention for the Protection of Human Rights and Fundamental Freedoms (1950, ECHR)	11 September 1997
	Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (1952)	11 September 1997
	European Charter for Regional or Minority Languages (1992)	19 September 2005
	Framework Convention for the Protection of National Minorities (1995)	26 January 1998
	Revised European Social Charter (1996)	21 December 2006
	Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (1995)	-
H U M A N I T A R I A N	Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949.	3 August 1954
	Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949.	3 August 1954
	Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.	03 August 1954
	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.	25 January 1990
	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.	25 January 1990
	Safe Schools Declaration (2015)	20 November 2019

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R E F U G E E S	Convention relating to the Status of Refugees (1951, Refugee Convention)	10 June 2002
	Protocol relating to the Status of Refugees (1967)	4 April 2002
C R I M I N A L	Rome Statute of the International Criminal Court (1998)	- (signed on 20 January 2000) Accepted temporary jurisdiction.

3. Finding relevant laws and policies

- Verkhovna Rada's website, in English and Ukrainian
<https://zakon.rada.gov.ua/laws/main/en/index>
- Unesco Observatory on the right to education – Ukraine profile, in English
<http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>
- Unesco Planipolis, in English
https://planipolis.iiep.unesco.org/en/search/site?f%5B0%5D=im_field_countries%3A1234