

JOINT ALTERNATIVE REPORT  
BY HUNGARIAN NGOs AND RESEARCHERS  
IN TRANSCARPATHIA (UKRAINE)  
ON THE FOURTH PERIODICAL REPORT OF UKRAINE  
ON THE IMPLEMENTATION  
OF THE EUROPEAN CHARTER FOR  
REGIONAL OR MINORITY LANGUAGES,  
SUBMITTED TO THE COUNCIL  
OF EUROPE'S COMMITTEE OF EXPERTS

## THE CONTINUOUS RESTRICTION OF LANGUAGE RIGHTS IN UKRAINE



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Joint alternative report by Hungarian NGOs and  
researchers in Transcarpathia (Ukraine) on the  
Fourth Periodical Report of Ukraine  
on the implementation of the European Charter for  
Regional or Minority Languages, submitted to the  
Council of Europe's Committee of Experts

*László Brenzovics*

*László Zubánics*

*Ildikó Orosz*

*Mihály Tóth*

*Karolina Darcsi*

*István Cserniczkó*



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## Foreword

This alternative report has been prepared and submitted by Hungarian researchers and non-governmental organizations representing the Hungarian community living in Transcarpathia (*Zakarpattya, Закарпатська область*), a county (*oblasts*) of Ukraine. It is the joint work of the members (experts) of the Transcarpathian Hungarian Cultural Association (KMKSZ), the Association of Hungarian Teachers in Transcarpathia (KMPSZ), the Democratic Alliance of Hungarians in Ukraine (UMDSZ), the Antal Hodinka Research Centre for Linguistics, and the Tivadar Lehoczky Research Centre for Social Sciences. The report focuses on issues related to the implementation and application of the European Charter for Regional or Minority Languages (hereinafter: Charter)<sup>1</sup> in Transcarpathia, and aims to complement and refine the government's periodic report from the perspective of users of regional and minority languages, as well as to raise some problematic issues that, notwithstanding the ratification of the Charter, remain unsolved in Ukraine.

The authors of this alternative report welcome the fourth periodic report of the Ukrainian government on the implementation of the European Charter for Regional or Minority Languages, prepared in Kyiv on December 2018.<sup>2</sup>

The authors appreciate the opportunity to comment on the report of the Government of Ukraine and are pleased to provide clarification and answers to any questions that may be raised by the Committee of Experts of the Council of Europe. We are also looking forward to meet the Committee of Experts' delegation during their visit to Ukraine, if requested and possible, to provide further feedback on the implementation of the Charter in Transcarpathia.

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<sup>1</sup> European Charter for Regional or Minority Languages. Strasbourg. <https://www.coe.int/en/web/conventions/full-list/-/conventions/-rms/0900001680695175>.

<sup>2</sup> Fourth periodical report presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter: Ukraine. Kyiv, December 2018. <https://rm.coe.int/ukrainepr4-en/1680972f17>



Our remarks in this document concern the application of the Charter, use of regional or minority languages in Transcarpathia, and reflect only marginally on the issues raised in the report of the Ukrainian government. Our report focuses on the application of the Charter to the Hungarian language, however, we also partly refer to other languages. However, the vast majority of our conclusions generally describe the situation and problems with the implementation of the Charter in Ukraine and in the Transcarpathian region of Ukraine.

Our alternative report is structured according to the articles of the Charter. After this brief foreword, following the structure of the Charter, we highlight, in bold italics, the specific commitments made by Ukraine in this area and add our own observations. References to certain articles of Ukrainian legislation are contained in footnotes. We often refer to specific laws, and each link includes the official name of the law and a direct internet link to the law. The reason and purpose of this is to enable the Reader to follow or verify our statements.

The comments made in this document are by no means exhaustive, and the lack of reaction to the allegations made in the report of the Government does not necessarily imply their acceptance or approval. Simply because of volume constraints, we focused primarily on those issues that seemed most important to us and on areas with the most recent developments.

In 2016, we submitted a similar alternative report on the implementation of the Charter in Ukraine and Transcarpathia in connection with the third periodic report of the Ukrainian government<sup>3</sup>, and in 2017, in connection with the Fourth Periodic Report on the Implementation of the Framework

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<sup>3</sup> Written Comments by Hungarian Researchers and NGOs in Transcarpathia (Ukraine) on the Third Periodic Report of Ukraine on the implementation of the European Charter for Regional or Minority Languages, submitted for consideration by the Council of Europe's Committee of Experts on the Charter. Berehovo – Beregszász, 11 July 2016. <https://kmksz.com.ua/wp-content/uploads/2017/01/Ukraine-Charter-shadow-report-Arnyekjelentes-nyk.pdf>

Convention for the Protection of National Minorities by Ukraine.<sup>4</sup> These alternative reports, which are the result of a collaboration between Hungarian minority organizations in Ukraine and scientific experts, testify to the desire and determination of the Hungarian Transcarpathian community to preserve their mother tongue and preserve existing language rights.

We are grateful to the Committee of Experts of the Council of Europe for studying and taking into account our arguments and comments.<sup>5</sup> We once again hope that our alternative report will highlight some of the problems in the implementation of the Charter in Ukraine, the solution of which may lead to positive changes.

It is well known that Ukraine, which became independent in 1991, is going through the worst crisis in its history. In addition to political and economic problems, the country also has to deal with military conflicts. In this tense situation, our aim is not to exacerbate linguistic and ethnic conflicts, but to contribute to consolidation and the creation of social peace. We are convinced that preserving ethnic, cultural and linguistic diversity and establishing mutual respect will bring peace closer to Ukraine. Compliance with laws guaranteeing the use of regional and minority languages is in the common interest of the state, the majority society and minority communities. Compliance with the law is an important step towards the rule of law and functional democracy. Promoting this was our primary goal in producing this alternative report.

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<sup>4</sup> Written Comments by Hungarian Researchers and NGOs in Transcarpathia (Ukraine) on the Fourth Periodic Report of Ukraine on the implementation of the Framework Convention for the Protection of National Minorities. Berehovo – Beregszász, January 20, 2017. <https://kmksz.com.ua/wp-content/uploads/2017/01/Framework-Convention-Transcarpathia-Ukraine-Shadow-Report-KE.pdf>

<sup>5</sup> Third report of the Committee of Experts in respect of Ukraine. [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=-090000168073cdfa](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=-090000168073cdfa)

We would like to express our wish to meet the representatives of the Committee of Experts in person during the on-the-spot monitoring of the implementation of the Charter (in Ukraine), in order to answer any questions that may arise. At the personal meeting, we are ready to support our position with documents.

Berehovo–Uzhhorod, 30 October 2019.

Yours sincerely,

*László Brenzovics*  
President of KMKSZ  
[root@kmksz.uzhgo.rod.ua](mailto:root@kmksz.uzhgo.rod.ua)

Tel. +3803141  
43259

*Ildikó Orosz*  
President of  
KMPSZ  
[orosz.ildiko@kmf.uz.ua](mailto:orosz.ildiko@kmf.uz.ua)

Tel. +3803126  
12998

*László Zubánics*  
President of UMDSZ  
[titkarsag.umsz@gmail.com](mailto:titkarsag.umsz@gmail.com)

Tel. +3803141 42815

*István Csernicskó*  
Director of A.  
Hodinka Research  
Centre for  
Linguistics  
[hodinka@kmf.uz.ua](mailto:hodinka@kmf.uz.ua)

*Karolina Darcsi*  
Research Fellow,  
T. Lehoczky  
Research Centre  
for Social  
Sciences  
[lti@kmf.uz.ua](mailto:lti@kmf.uz.ua)

*Mihály Tóth*  
Honorary President  
of UMDSZ  
[tothmihaly@meta.ua](mailto:tothmihaly@meta.ua)  
Tel. +3803141 24343



## Executive summary

Ukraine ratified the European Charter for Regional or Minority Languages in 1999 for the first time. However, the law on the ratification of the Charter was repealed by the Constitutional Court of Ukraine in 2000 for formal reasons. When ratifying the Charter in 2003, the country entered into much fewer commitments than in 1999.

Ukraine undertook fewer obligations under the Charter than it would be justified by the situation of regional or minority languages. This entails the possibility that Kyiv will reduce the rights to use regional or minority languages to the level it had undertaken when ratifying the Charter. Based on the events in recent years, one can conclude that Kyiv has been doing just that: it has been gradually and continuously reducing the rights to use regional or minority languages. Since the previous (third) reporting period, the Kyiv government has adopted a number of new laws that significantly narrow the right and possibility to use regional or minority languages. However, the fourth periodic report submitted by the Kyiv government makes no mention of these new laws.

The Language Law of 2012 was repealed by the Constitutional Court of Ukraine (for formal reasons) in 2018. The annulment of the law significantly reduced the rights of speakers of regional or minority languages. Kyiv has not adopted a new law on the use of minority languages ever since.

On 25 April 2019, the Law on Supporting the Functioning of the Ukrainian Language as the State Language was adopted by the Supreme Council of Ukraine (Ukraine's parliament). Certain parts of the law came into force on 16 July 2019. This law should be subject to special and thorough examination and analysis by the Committee of Experts of the Council of Europe, as it practically made the application of the Charter impossible in Ukraine.<sup>6</sup>

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<sup>6</sup> This law was seriously criticized by the Venice Commission in its official opinion of 9 December 2019: CDL-AD(2019)032. EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE



The ratification of the Charter was preceded and followed by strong negative propaganda in Ukraine. Politicians, state officials, academics, activists, and journalists have criticized the Charter. During this negative campaign, several false claims were made about the Charter. Some of the false allegations were included in university textbooks approved by the Ministry of Education and Science of Ukraine and in a legal statement issued by the Ministry of Justice of Ukraine. This has significantly undermined the prestige of the Charter among the population of the country.

The Ukrainian State does not adequately inform its citizens, civil servants and municipal employees about the laws on language use and the provisions of the Charter. The laws governing the use of regional or minority languages are unknown even to those State and municipal officials who are responsible for their implementation. The lack of awareness seriously impedes the use of regional or minority languages.

The new political force that came to power after the 2019 elections put the issue of administrative reform and decentralization back on the agenda. However, the new political power – just like the previous one – did not involve representatives of the Hungarian national minority in the discussion of the drafts, so there is little chance of creating an administrative unit where Hungarians would constitute the majority of the population. It is a matter of concern that, according to the drafts drawn up in Kyiv, the government intends to abolish the Berehove/ Берегівський/Beregszászi district (*район, járás*): the only administrative unit with a Hungarian majority population, 80.2% of which is of Hungarian mother tongue. Merging the dominantly Hungarian Berehove district into other districts and disintegrating the Hungarian ethnic and linguistic area is contrary to the aims of the Charter.

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COMMISSION). UKRAINE. OPINION ON THE LAW ON SUPPORTING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE. Opinion No. 960/2019. Strasbourg, 9 December 2019. [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)

Until the adoption of the Education Law of 2017, the Ukrainian laws had defined the right to choose the language of instruction as an inalienable right of citizens. Article 7 of the new Education Law of 2017 and Article 21 of the State Language Law of 2019 abolished the right of citizens to choose the language of instruction. This right used to be provided to the citizens of Ukraine during the existence of the Soviet Union, and was also granted to the citizens of independent Ukraine from 1991 to 2017. Therefore, the new provisions are a significant step back in the field of the use of regional or minority languages in education.

Under Article 7 of the new Law on Education of 2017 and Article 21 of the State Language Law of 2019, the citizens of Ukraine are divided into four major groups based on their rights related to the language of education. The first group is the majority (Ukrainians): they are not affected by legislative changes, as they can continue to study in their mother tongue at all levels of education. Persons belonging to indigenous peoples (in fact, the Crimean Tatars) can pursue their studies in their mother tongue „along with the State language”. Persons belonging to national minorities (Hungarians, Romanians, Poles, Bulgarians) whose languages are official languages of the European Union may receive education in their mother tongue in primary schools, but in grade 5 at least 20% of the annual amount of lessons should be taught in the State language. This scope has to reach at least 40% by grade 9 and 60% by grades 10–12. National minorities whose languages are not official in the EU (Russians, Belarusians) receive education in the State language in scope of not less than 80 percent of the annual amount of study time from grade 5 onwards.

Article 7 of the Education Law virtually eliminates the teaching of regional or minority languages in vocational education and higher education. At these levels of education, regional or minority languages may only appear as school subjects (but not as languages of instruction).

Article 7 of the Education Law of 2017 and Article 21 of the State Language Law of 2019 allow for education in regional or

minority languages only in “communal institutions”.<sup>7</sup> This means that the Ukrainian government banishes regional or minority languages from public educational institutions.

These two laws abolish the institutional autonomy of institutions (kindergartens, schools) teaching in regional or minority languages (because only classes and groups are allowed to operate in minority languages within Ukrainian-language institutions).

According to Article 29 of the Criminal Code of Ukraine, anyone who does not speak or know the official language at an appropriate level may give evidence in their mother tongue or in a language they know. Article 6 (1) of the State Language Law, adopted on 25 April 2019, obliges every citizen of Ukraine to be proficient in the Ukrainian State language. Referring to this, Ukraine may deny the use of regional or minority languages in court proceedings and litigation (since if mastering the Ukrainian language is a legal requirement, non-proficiency is illegal).

Article 12 (2) of the State Language Law permits, in principle, the use of regional or minority languages at meetings of State bodies and regional and local authorities. In such cases, however, it is mandatory to translate anything that has not been said in the State language into Ukrainian. This makes it impossible to hold meetings of local self-governments in regional or minority languages.

Article 41 (4) of the State Language Law prescribes that the inscriptions of geographical names can only be in Ukrainian. Below or to the right of the Ukrainian inscription (in smaller font size), the geographical name can also be displayed in a transcript of Latin characters. This provision excludes the use of names of localities, streets, squares, etc. in regional or minority languages.

The new Law on Civil Service, adopted on 10 December 2015, defines the official language as the sole language of communication of officials of government agencies and local self-government bodies as well as of the documents of such

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<sup>7</sup> Communal institution = municipal institution.

institutions (Article 2). The law requires civil servants to mandatorily use the official language in the performance of their official duties (Article 8), but makes no mention of the use of minority or regional languages in public offices. By doing so, Kyiv fails to fulfill its obligations under the Charter.

Ukraine has fundamentally changed the language regime of electronic media by adopting new laws. The new laws significantly reduce the proportion of regional or minority languages in television and radio broadcasting.

County, district and local units of State agencies (such as tax offices, the police, public prosecutor's offices, fire departments, railways, etc.) do not communicate with their clients in regional or minority languages. State providers of public utilities (electricity, gas) do not use regional or minority languages in communication with their customers, either.

Labels and instructions of products in the market are almost exclusively in Ukrainian. It is particularly dangerous that medicines do not contain information in regional and minority languages, either.

According to the previous reports of the Committee of Experts, Kyiv has not fully fulfilled its obligations under the instrument of ratification of the Charter. However, the authors of the latest State report do not react to the critiques and suggestions made in the previous reports and recommendations of the Committee of Experts and the Committee of Ministers of the Council of Europe.

The Venice Commission in its Opinion on the Law of Ukraine "On Supporting the Functioning of the Ukrainian Language as the State Language" recommended to Ukraine: "to revise the State Language Law in order to ensure, in the light of the specific recommendations made in the present opinion, its compliance with Ukraine's international commitments, especially those stemming from the Framework Convention, the Language Charter, and the ECHR and its Protocol No. 12. In the legislative process, the legislator should consult all interested parties, especially representatives of national

minorities and indigenous peoples as they are and will be directly affected by the implementation of these two pieces of legislation.”<sup>8</sup>

Welcoming the recommendations of the Venice Commission, we ask the Council of Europe to urge Kyiv to carefully review and amend not only the law on the state language, but also the whole spectrum of state language policy, all laws, regulations, orders and decrees governing the use of languages in Ukraine.

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<sup>8</sup> Para. 139. CDL-AD(2019)032. EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). UKRAINE. OPINION ON THE LAW ON SUPPORTING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE. Opinion No. 960/2019. Strasbourg, 9 December 2019. [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)

## Introduction – Ukraine's obligations under the Charter

1. Ukraine ratified the European Charter for Regional or Minority Languages in 1999 for the first time.<sup>9</sup> However, the law on the ratification of the Charter was repealed by the Constitutional Court of Ukraine in 2000 for formal reasons.<sup>10</sup>
2. In 2003, Ukraine ratified the Charter again.<sup>11</sup> However, the instrument of ratification was deposited with the Secretary General of the Council of Europe only two years later, on 19 September 2005. The Charter entered into force in Ukraine as late as 1 January 2006.
3. With its obligations under the law on ratification, Kyiv made only minimal efforts to protect regional or minority languages. Furthermore, at the 2003 ratification of the Charter, the country entered into much fewer commitments than in 1999, as shown by Table 1.

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<sup>9</sup> Закон України «Про ратифікацію Європейської хартії регіональних мов або мов меншин, 1992 р.» [Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages, 1992"] <https://zakon.rada.gov.ua/laws/show/1350-14>

<sup>10</sup> Рішення Конституційного Суду України у справі за конституційним поданням 54 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України „Про ратифікацію Європейської хартії регіональних мов або мов меншин 1992 р.” від 12.07.2000 р. № 9-рп/2000. [Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of 54 Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages of 1992" of 12.07.2000 No. 9-rp/2000] <https://zakon.rada.gov.ua/laws/show/v009p710-00>

<sup>11</sup> Закон України „Про ратифікацію Європейської хартії регіональних мов або мов меншин”. [Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages".] <https://zakon.rada.gov.ua/laws/show/802-15>

*Table 1. Undertakings of Ukraine under the European Charter for Regional or Minority Languages, based on the comparison of the ratification laws of 1999 and 2003.*

	<b>Law No. 1350-XIV, 1999</b>	<b>Law No. 802-IV, 2003</b>
Part I: General provisions	Fully applicable	Fully applicable
Part II: Objectives and principles pursued in accordance with Article 2, paragraph 1	Fully applicable	Applicable, except point 5 of Article 7
Part III: Measures to promote the use of regional or minority languages in public life in accordance with the undertakings entered into under Article 2, paragraph 2		
8. Education		
1.		
a) pre-school education	a (i), a (ii), a (iii)	a (iii)
b) primary education	b (i), b (ii), b (iii)	b (iv)
c) secondary education	c (i), c (ii), c (iii)	c (iv)
d) technical and vocational education	d (i), d (ii), d (iii)	d (iv)
e) higher education	e (i), e (ii)	e (iii)
f) adult and continuing education courses	f (i), f (ii)	f (iii)
g)	g	g
h)	h	h
i)	I	i
2.	2.	2.
9. Judicial authorities		
1.		
a)	a (ii), a (iii)	a (iii)
b)	b (ii), b (iii)	b (iii)
c)	c (ii), c (iii)	c (iii)
d)	–	–
2.		
a)	–	–
b)	–	–
c)	c	c
3.	3.	3.

10. Administrative authorities and public services		
1.		
a)	a (i), a (ii), a (iii)	–
b)	–	–
c)	c	–
2.		
a)	a	a
b)	b	–
c)	–	c
d)	d	d
e)	e	e
f)	f	f
g)	–	g
3.		
a)	a	–
b)	b	–
c)	c	–
4.		
a)	–	–
b)	–	–
c)	c	c
Point 5	In all	–
11. Media		
1.		
a)	a (ii), a (iii)	a (iii)
b)	b (ii)	b (ii)
c)	c (ii)	c (ii)
d)	d	d
e)	e (i), e (ii)	e (i)
f)	–	–
g)	g	g
2.	2.	2.
3.	3.	3.
12. Cultural activities and facilities		
1.		
a)	a	a
b)	b	b
c)	c	c
d)	d	d

e)	–	–
f)	f	f
g)	g	g
h)	–	–
2.	2.	2.
3.	3.	3.
13. Economic and social life		
1.		
a)	a	–
b)	b	b
c)	c	c
d)	d	–
2.		
a)	–	–
b)	b	–
c)	c	–
d)	–	–
e)	–	–
14. Trans-frontier exchanges		
a)	a	a
b)	b	b
Part IV: Application of the Charter	Fully applicable	Fully applicable
Part V: Final provisions	Fully applicable	Fully applicable

4. According to the 2003 law on ratification, 13 languages are protected under the Charter in Ukraine. These 13 languages are equally treated by the law, despite the fact that some of them have millions of speakers (Russian), some have a significant number of speakers (such as Romanian or Hungarian) and some have only a few hundred speakers in the country (e.g. Karaim, Krimchak).
5. Ukraine undertook fewer obligations under the Charter than it would be justified by the situation of regional or minority languages. For example, speakers of the Russian, Hungarian, Romanian, etc. languages were in a much better legal position at the time of ratification of the Charter than what Kyiv committed itself to in the instrument of ratification. This entails the possibility that Kyiv will reduce the rights to

use regional or minority languages to the level it had undertaken when ratifying the Charter.

6. The reality of this threat is demonstrated by the fact that since the previous (third) reporting period, the Kyiv government has adopted a number of new laws that significantly restrict the right and possibility to use regional or minority languages. These include, *inter alia*, the Law on Civil Service,<sup>12</sup> the law changing the language of electronic media,<sup>13</sup> and the new Law on Education.<sup>14</sup>
7. The annulment of the Language Law adopted in 2012<sup>15</sup> also significantly reduced the rights of speakers of regional or minority languages. This law granted more rights related to the use of regional or minority languages in the domains of administration, judiciary, education, media and culture than the previous Language Law, adopted in 1989,<sup>16</sup> or the law on the ratification of the Charter. However, the Language Law of 2012 was repealed by the Constitutional Court of Ukraine (for formal reasons) in 2018.<sup>17</sup>

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<sup>12</sup> Закон України «Про державну службу». [Law of Ukraine "On Civil Service"] <https://zakon.rada.gov.ua/laws/show/889-19>

<sup>13</sup> Закон України «Про внесення змін до деяких законів України щодо мови аудіовізуальних (електронних) засобів масової інформації». [Law of Ukraine "On Amendments to Some Laws of Ukraine on the Language of Audiovisual (Electronic) Media"] <https://zakon.rada.gov.ua/laws/show/2054-19>

<sup>14</sup> Закон України «Про освіту». [Law of Ukraine "On Education"] <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>15</sup> Закон України «Про засади державної мовної політики». [Law of Ukraine "On the Principles of State Language Policy"] <https://zakon.rada.gov.ua/laws/show/5029-17>

<sup>16</sup> Закон України «Про мови в Українській РСР». [Law of Ukraine "On Languages in the Ukrainian SSR"]. <https://zakon.rada.gov.ua/laws/show/8312-11>

<sup>17</sup> Рішення Конституційного Суду України у справі за конституційним поданням 57 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про засади державної мовної політики». [Decision of the

8. The new law on the State language<sup>18</sup> was adopted by the Supreme Council of Ukraine on 25 April 1997, with the aim to promote Ukrainian as the State language. The country report submitted by Ukraine had been drafted before the adoption of the new law and therefore the law had not been addressed there. However, certain parts of the new law came into force on 16 July 1997, so in our report we considered it necessary to reflect on the provisions and expected consequences thereof.
9. The ratification of the Charter was preceded and followed by strong negative propaganda in Ukraine. Politicians, State officials, academics, activists, and journalists have criticized the Charter. During this negative campaign, several false claims were made about the Charter. This has significantly undermined the prestige of the Charter among the population of the country.
10. A frequent argument against the Charter's application in Ukraine is that the ratification law does not protect those languages which should be protected. Misleading the public, many claim that languages that are used as official languages in other States cannot be protected by the Charter. They argue that in Ukraine the Charter cannot extend to the Russian, Romanian, Moldavian, Slovak, German, Hungarian, etc. languages.
11. According to a book<sup>19</sup> prepared by the Institute of Political and Ethnic Studies, named after I. F. Kuras, of the National

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Constitutional Court of Ukraine in the case of the constitutional submission of the 57 Deputies of Ukraine on the conformity of the Constitution of Ukraine (constitutionality) with the Law of Ukraine "On the Principles of State Language Policy"] <https://zakon.rada.gov.ua/laws/show/v002p710-18>

<sup>18</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine "On Supporting the Functioning of the Ukrainian Language as the State Language"] <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>19</sup> Майборода Олександр, Шульга Микола, Горбатенко Володимир, Ажнюк Борис, Нагорна Лариса, Шаповал Юрій,

Academy of Sciences of Ukraine, the representatives of the Kyiv parliament received a wrong translation of the Charter, leading them to the false belief that the Charter protects minority languages, whereas the purpose of the Charter is to safeguard endangered and nearly extinct languages.

12. Opinions criticizing the Charter are also included in higher education textbooks approved by the Ministry of Education and Science of Ukraine. According to a university textbook by Halyna Maciuk, professor at the Ivan Franko National University in Lemberg, „ There were problems with the implementation of the Charter”.<sup>20</sup> In Maciuk’s view, the languages listed in the Ukrainian ratification law should not be covered by the Charter. The professor of the leading university in the country cites an “expert” who claims that the Charter “was created in the bosom of the Western European terminological tradition and therefore cannot be interpreted only from the standpoint of the current Constitution of Ukraine, since **the Charter is contrary to the Constitution**” (highlighting report authors).<sup>21</sup>
13. Larysa Masenko, a senior professor at one of the major universities in Kyiv, writes in her textbook that the ratification of the Charter in Ukraine has been pushed by Russian politicians. The professor states in her book that the real purpose of the Charter is to protect languages that are in danger of disappearing.<sup>22</sup>

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Котигоренко Віктор, Панчук Май, Перевезій Віталій: *Мовна ситуація в Україні: між конфліктом і консенсусом*. [The Language Situation in Ukraine: Between Conflict and Consensus] Київ: Інститут політичних і етнонаціональних досліджень імені І. Ф. Кураса НАН України, 2008.

<sup>20</sup> Мацюк Галина: *Прикладна соціолінгвістика. Питання мовної політики*. [Applied Sociolinguistics. Language policy issues] Видавничий центр Львів: Львівський Національний Університет імені Івана Франка. 2009, p. 167.

<sup>21</sup> *Ibid.*, p. 168.

<sup>22</sup> Масенко Лариса: *Нариси з соціолінгвістики*. [Essays on Sociolinguistics] Київ: Видавничий дім „Києво-Могилянська академія”, 2010. pp. 145–146.



14. Other renowned academics and researchers in Ukraine have similar views on the Charter.<sup>23</sup> Their opinion influence public authorities and the courts, as well.
15. In December 2016, the Constitutional Court of Ukraine held a public hearing on the 2012 Language Law.<sup>24</sup> On 13 December 2016, Iryna Farion, a professor at the Ivan Franko National University in Lviv, appeared as an expert in front of the Court. Her expert opinion presented at the court is available on YouTube.<sup>25</sup> The professor drew the attention of the judges to the fact that the term „regional or minority language” is not included in the Constitution of Ukraine, and therefore the concept is not applicable in the Ukrainian legal system. Professor Farion further argued that the purpose of the Charter is solely to protect endangered languages (and it cannot safeguard languages that are used as official languages in other States).
16. The position of the „experts” quoted is also supported by the Ministry of Justice of Ukraine. An official legal statement<sup>26</sup>

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<sup>23</sup> For example: Бестерс-Дільгер Юліане: Нація та мова після 1991 р. – українська та російська в мовному конфлікті [The nation and language after 1991: Ukrainian and Russian in language conflict]. In: *Україна. Процеси націотворення*. Київ: Видавництво „К.І.С.”, 2011. pp. 362–363.

<sup>24</sup> Закон України «Про засади державної мовної політики». [Law of Ukraine "On the Principles of State Language Policy"] <https://zakon.rada.gov.ua/laws/show/5029-17>

<sup>25</sup> Ірина Фаріон. Захист рідної мови у конституційному суді | 13 грудня '16. [Iryna Farion. Protection of the mother tongue in the Constitutional Court | December 13, '16] <https://www.youtube.com/watch?v=8fB2YslJaQ4>

<sup>26</sup> Юридичний висновок Міністерства юстиції щодо рішень деяких органів місцевого самоврядування (Харківської міської ради, Севастопольської міської ради і Луганської обласної ради) стосовно статусу та порядку застосування російської мови в межах міста Харкова, міста Севастополя і Луганської області від 10 травня 2006 року. [Legal Opinion of the Ministry of Justice on decisions of some local self-government bodies (Kharkiv City Council, Sevastopol City Council and Luhansk Regional Council) regarding the status and procedure of using

issued by the Ministry in 2006 virtually reiterates the above-mentioned statements in relation to the Charter: „The ratification of the Charter by Ukraine, in the form it took place on 15 May 2003, has caused a number of acute legal, political and economic problems in Ukraine. The main reasons for this are the **incorrect official translation of the text into Ukrainian**, annexed to the law on the ratification of the Charter, and the **misunderstanding of the subject matter and purpose of the Charter**.”<sup>27</sup> (Emphasis in the original document.)

17. The official conception of the principles of State language policy lists among its most important objectives that the law on the ratification of the Charter in Ukraine should be amended so that the new law is brought into line with the original aims of the Charter.<sup>28</sup> The document thus states that the ratification law adopted in Kyiv in 2003 is incompatible with the objectives of the Charter.
18. However, the above statements are false. For example, it is not true that the Charter considers only the protection of endangered languages as its purpose and that the protection of languages used as official languages in other States does not belong to its objectives. The majority of States that have ratified the Charter have included several languages under its protection which have the status of official language in other countries. According to the Ukrainian „experts” quoted earlier,

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Russian in the city of Kharkiv, Sevastopol and Lugansk region of May 10, 2006] [https://minjust.gov.ua/m/str\\_7477](https://minjust.gov.ua/m/str_7477)

<sup>27</sup> The original text: „Ратифікація Україною цієї *Хартії* у такому вигляді, як це було вчинено 15 травня 2003 року, об’єктивно спричинила виникнення в Україні низки гострих проблем юридичного, політичного та економічного характеру. Головними причинами цього є як **неправильний офіційний переклад** тексту документа **українською мовою**, який був доданий до Закону про ратифікацію *Хартії*, так і **хибне розуміння об’єкта і мети *Хартії***.”

<sup>28</sup> Концепція державної мовної політики [Conception of the state’s language policy]. <http://zakon5.rada.gov.ua/laws/show/-161/2010>



the German, Russian and Hungarian languages, for example, cannot enjoy the Charter's protection in Ukraine because they are not endangered languages and are used as official languages in other countries. In turn, German is one of the languages protected by the Charter in Armenia, Bosnia and Herzegovina, Croatia, the Czech Republic, Denmark, Hungary, Poland, Romania, Serbia, Slovakia, Slovenia, Switzerland, and of course, Ukraine. The Russian language is protected under the Charter in – besides Ukraine – Armenia, Finland, Poland, and Romania. Similarly, the Hungarian language is protected not only in Ukraine, but also in Austria, Bosnia and Herzegovina, Croatia, Romania, Serbia, Slovakia, and Slovenia. The Ukrainian language (the only official language of Ukraine) is protected under the Charter in Armenia, Bosnia and Herzegovina, Croatia, Hungary, Poland, Romania, Serbia and Slovakia.<sup>29</sup> Russian, German, Hungarian, and Ukrainian cannot be considered endangered languages, nevertheless, they are protected by the Charter in several States.

19. It is not true, therefore, that it is contrary to the aims of the Charter to promote languages which are recognized as official languages in other States. When Kyiv criticizes the 2003 ratification law for this reason, it is in fact looking for an excuse and exemption to avoid its obligations.
20. As we have seen, the negative information campaign against the Charter in Ukraine has been supported by State policy. All this indicates that Ukraine does not intend to implement the Charter: the protection of regional or minority languages is not a real goal for Kyiv.

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<sup>29</sup> States Parties to the European Charter for Regional or Minority Languages and their regional or minority languages. <https://rm.coe.int/states-parties-to-the-european-charter-for-regional-or-minority-language/168077098c>

## Part I – General provisions

***Article 6 – Information: The Parties undertake to see to it that the authorities, organisations and persons concerned are informed of the rights and duties established by this Charter.***

21. The Ukrainian State does not adequately inform its citizens, civil servants and municipal employees about the legislation on language use. Laws are published only in the Ukrainian language on the official website of the Supreme Council of Ukraine<sup>30</sup> and in official newspapers: *Голос України, Урядовий кур'єр, Офіційний вісник*. The State has failed to translate the laws governing the use of regional or minority languages into these languages. Both the Charter and the law on the ratification of the Charter have been published only in Ukrainian.
22. The laws governing the use of regional or minority languages are often unknown even to those State and municipal officials who are responsible for their implementation. The lack of awareness seriously impedes the use of regional or minority languages.
23. The negative information campaign against the Charter (also present in university textbooks and government documents) hampers the practical enforcement of the rights to use regional or minority languages.
24. In our opinion, the State should play an effective role in raising public awareness of the rights to use regional or minority languages. The State should ensure that public officials are informed of the rights to use regional or minority languages and of their responsibilities to promote the use of these languages.

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<sup>30</sup> <http://zakon5.rada.gov.ua/laws>

## **Part II – Objectives and principles pursued in accordance with Article 2, paragraph 1**

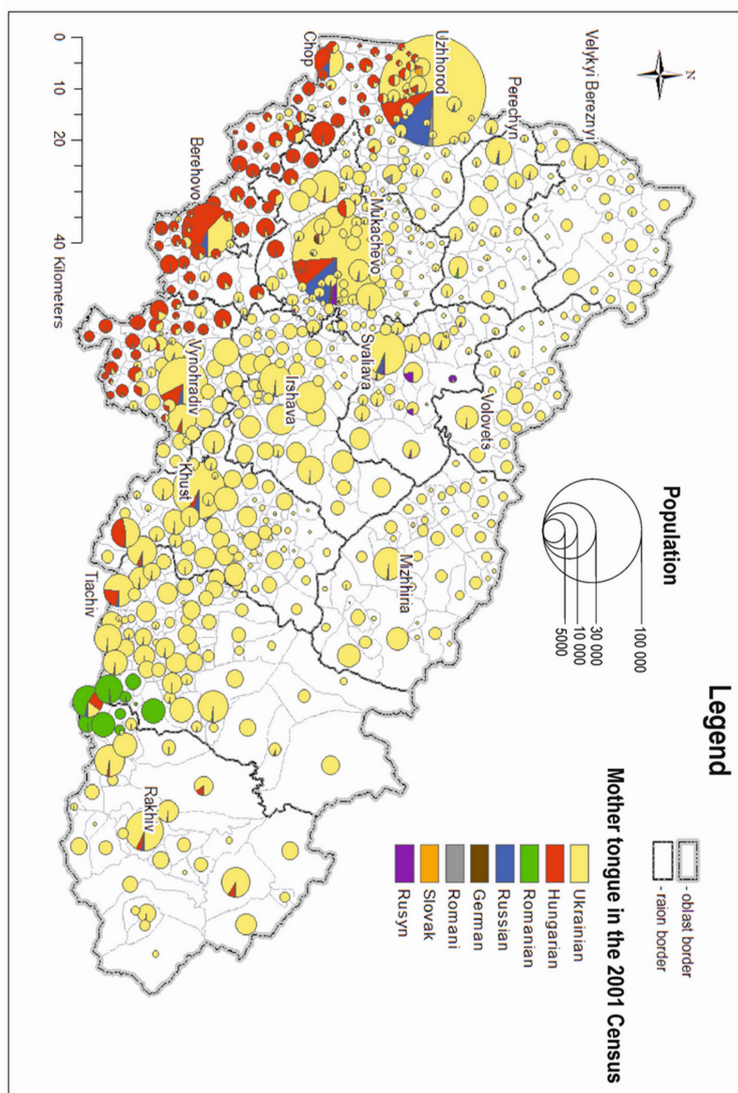
### ***Article 7 – Objectives and principles***

***1. In respect of regional or minority languages, within the territories in which such languages are used and according to the situation of each language, the Parties shall base their policies, legislation and practice on the following objectives and principles:***

***b. the respect of the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;***

25. Ukraine became an independent state in 1991 with the same internal administrative division it inherited from the Ukrainian Soviet Socialist Republic. The Ukrainian government has repeatedly tried to change the Soviet administrative division, with no success so far. However, the Ukrainian government has failed to consult with political and non-governmental organizations representing users of regional or minority languages on the administrative reform.
26. According to the official data of the latest census in Ukraine, 96.8% of persons belonging to the Hungarian national minority and 98.2% of Hungarian native speakers live in a single region within Ukraine: the county (область) of Transcarpathia. In Transcarpathia, Hungarians are the largest community (12.1%) after the Ukrainians (80.5%). According to the census data, the proportion of Hungarian native speakers in Transcarpathia is 12.65%. At the time of the 2001 census, there were 153 localities in Transcarpathia where the proportion of Hungarian speakers was at least 1%. At the same time, in 113 localities the number of Hungarians exceeded 100. Within Transcarpathia, the majority of Hungarians live in the immediate vicinity of the Ukrainian-Hungarian state border, in a compact zone (Figure 1).

Figure 1. Population distribution of Transcarpathia by mother tongue, based on the 2001 census



27. In terms of administration, most part of the compact Hungarian-speaking area belongs to four different districts within Transcarpathia. According to the data of the 2001 census, the proportion of Hungarian native speakers was 80.2% in the Berehove / Березівський / Beregszászi district, 13.8% in the Mukachevo / Мукачівський / Munkácsi district, 36.5% in the Uzhhorod / Ужгородський / Ungvári district and 26.3% in the Vynohradiv / Виноградівський / Nagyszőlősi district. This fragmentation does not favor the use of the Hungarian language.
28. In Ukraine, an administrative reform is under way, based on a 2015 law on voluntary association of municipalities (territorial communities).<sup>31</sup> Article 4 (4) of the law provides that historical, natural, ethnic and cultural aspects are to be taken into account during the merger of municipalities. This decentralization process, announced by the law and the government, offers the opportunity to consolidate a large part of the Hungarian-speaking area into a single administrative unit. The Hungarian community has drafted a proposal to create a district (район) with Hungarian majority. Prior to the presidential election in 2014, Petro Poroshenko, then presidential candidate, signed an agreement with the Transcarpathian Hungarian Cultural Association (KMKSZ) and pledged to support the establishment of an administrative unit with Hungarian majority. However, after being elected president, he did not abide by the agreement.
29. The new political force that came to power after the 2019 elections put the issue of administrative reform and decentralization back on the agenda. However, the new political power – just like the previous one – did not involve representatives of the Hungarian national minority in the discussion of the drafts, so there is little chance of creating

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<sup>31</sup> Закон України «Про добровільне об'єднання територіальних громад». [Law of Ukraine "On voluntary association of territorial communities"] <https://zakon.rada.gov.ua/laws/show/157-19>

an administrative unit where Hungarians would constitute the majority of the population.

30. It is a matter of concern that, according to the drafts drawn up in Kyiv, the government intends to abolish the Berehove / Березівський / Beregszászi district (район, járás), i.e. the only administrative unit with a Hungarian majority population, 80.2% of which is of Hungarian mother tongue.
31. Merging the dominantly Hungarian Berehove district into other districts and disintegrating the Hungarian ethnic and linguistic area is contrary to the aims of the Charter. Such an administrative reform is also contrary to Article 2 of the Declaration on the Rights of Nationalities of Ukraine<sup>32</sup> and Article 10 of the Law on National Minorities.<sup>33</sup>
32. Dividing the Hungarian ethnic territory into several administrative units hinders the advocacy activities of the Hungarian community. In the 2019 parliamentary elections, the Hungarian ethnic area was divided into three different constituencies. The proportion of Hungarians was 15%, 13% and 33% in the constituencies of Uzhhorod, Mukachevo and Vynohradiv, respectively. Earlier (during the 1994, 1998 and 2002 parliamentary elections), the Central Election Commission of Ukraine used to establish a voting district in Transcarpathia where Hungarians constituted a majority. This made it possible for Hungarians living in Transcarpathia to send a representative to the Kyiv parliament. In 2019, the Hungarian advocacy organizations in Transcarpathia sent an official letter to the Central Election Commission requesting that the geographical distribution of the Transcarpathian Hungarian localities be taken into account in the process of establishing the

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<sup>32</sup> Декларація прав національностей України. [Declaration on the Rights of Nationalities of Ukraine] <http://zakon5.rada.gov.ua/laws/show/1771-12>

<sup>33</sup> Закон України «Про національні меншини в Україні». [Law of Ukraine "On National Minorities in Ukraine"] <http://zakon3.rada.gov.ua/laws/show/2494-12>

constituencies. Passage 3 of Article 18(2) of the law on the election of members of Parliament<sup>34</sup> provides the following: „Administrative-territorial units where separate national minorities live in a compact manner and are adjacent to each other shall be included in one constituency. If in adjacent administrative units the number of voters belonging to a national minority exceeds the number required to establish a constituency, the constituencies shall be formed in such a way that in one of them the voters belonging to the national minority constitute the majority of the voters in the constituency.”<sup>35</sup> Yet, the Central Election Commission rejected the petition and insisted that the Hungarian ethnic areas be divided into three different constituencies. Although there was a Hungarian candidate in each of the three districts, none of them managed to obtain the majority of the votes. Hungarians in Transcarpathia were thus left without parliamentary representation.

33. The example of the 2019 parliamentary elections also shows that the establishment of an administrative unit with a Hungarian majority is extremely important for the preservation of the Hungarian language and for the representation of the interests of the Hungarian national minority.

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<sup>34</sup> Закон України «Про вибори народних депутатів України». [Law of Ukraine "On Elections of People's Deputies of Ukraine"] <https://zakon.rada.gov.ua/laws/show/4061-17>

<sup>35</sup> The original text in the Ukrainian language: Пункт 3) частини 2 Статті 18: «Адміністративно-територіальні одиниці, на території яких компактно проживають окремі національні меншини та які межують між собою, повинні входити до одного виборчого округу. У разі якщо в суміжних адміністративно-територіальних одиницях кількість виборців, які належать до національної меншини, є більшою, ніж необхідно для формування одного виборчого округу, округи формуються таким чином, щоб в одному з них виборці, які належать до національної меншини, становили більшість від кількості виборців у виборчому окрузі.»

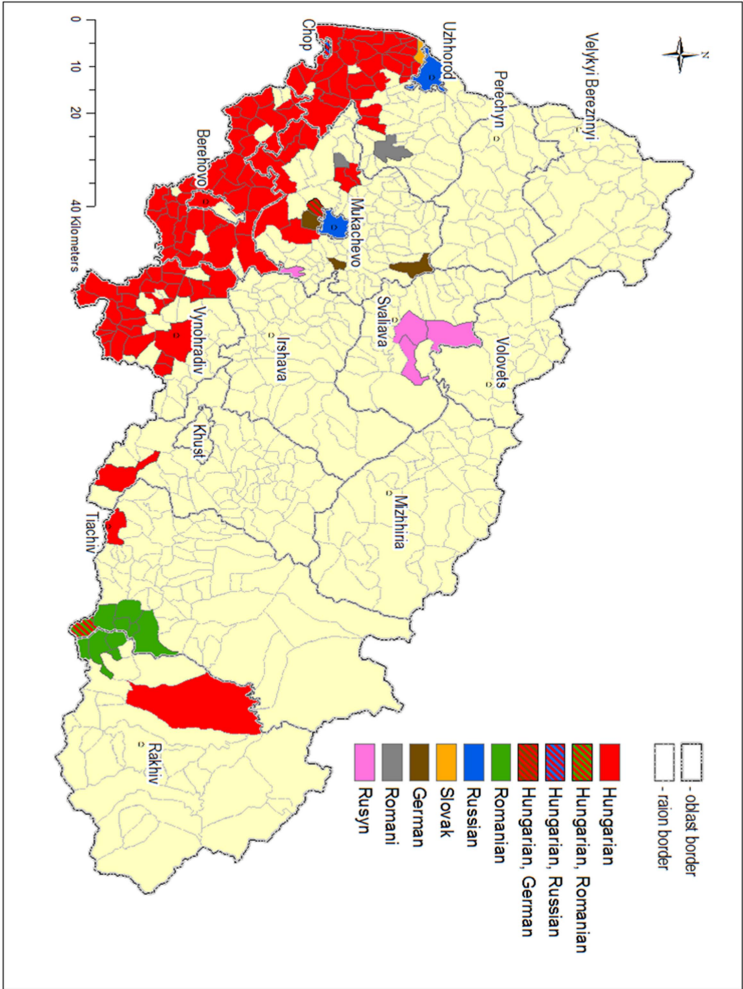
***d. the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life;***

34. The 2012 Language Law<sup>36</sup> allowed for the use of regional or minority languages both orally and in writing, in private and public life in those counties (область), districts (район) and municipalities where the proportion of native speakers of a given language reached 10%. According to the latest census in Ukraine, the proportion of Hungarian native speakers in Transcarpathia was 12.65%. The proportion of Hungarian native speakers exceeded the 10% threshold in the Berehove district (80.2%), the Vynohradiv district (26.0%), the Mukachevo district (13.8%), and the Uzhhorod district (36.5 %), furthermore, in four cities (Berehove / Берегове / Beregszász, Chop / Чоп / Csap, Vynohradiv / Виноградів / Nagyszőlős, Tyachiv / Тячів / Técső) and 69 rural municipalities. The proportion of Romanian native speakers met the 10% threshold in the Tiachiv / Тячів / Técső and Rakhiv / Рахів / Rahó districts and in 7 municipalities. Slovak native speakers achieved 10% in one locality (Storozhnytsia / Строжниця / Őrdarma), German native speakers in two localities (Shenborn / Шенборн / Schönborn, Pavshyno / Павшино / Paushing). The proportion of Roma native speakers reached 10% in Seredne / Середнє / Szerednye, whereas Ruthenians composed more than 10% of the population in Hankovytsia / Ганьковиня and Nelipyno / Неліпино localities (Figure 2).

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<sup>36</sup> Закон України «Про засади державної мовної політики». <https://zakon.rada.gov.ua/laws/show/5029-17>

Figure 2. Localities where the proportion of speakers of at least one regional or minority languages exceeds the 10% threshold in Transcarpathia (according to the 2001 Census).



35. However, the Language Law of 2012 was annulled by the Constitutional Court of Ukraine in 2018.<sup>37</sup> On 25 April 2019, the Kyiv parliament adopted the State Language Law.<sup>38</sup> Currently, this law defines the language regime of Ukraine. It is a significant step back from the standards set out in the 2012 Language Law. It prescribes the use of the State language in all public spheres and banishes regional or minority languages to private life and church rituals. This law has received considerable and substantial criticism from the Venice Commission. The Venice Commission states that several articles of the Law on the State Language do not comply with the Charter.<sup>39</sup>

***g. the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;***

36. In Transcarpathia, there is considerable interest in the Hungarian language. Since 2017, about 4 000 persons have attended Hungarian foreign language courses offered by the Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education. In some Ukrainian-medium schools,

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<sup>37</sup> Рішення Конституційного Суду України у справі за конституційним поданням 57 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про засади державної мовної політики». [The decision of the Constitutional Court of Ukraine in the case of the constitutional submission of the 57 People's Deputies of Ukraine on the conformity of the Constitution of Ukraine (constitutionality) with the Law of Ukraine "On the Principles of State Language Policy"] <https://zakon.rada.gov.ua/laws/show/v002p710-18>

<sup>38</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>39</sup> CDL-AD(2019)032. EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). UKRAINE. OPINION ON THE LAW ON SUPPORTING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE. Opinion No. 960/2019. Strasbourg, 9 December 2019. [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)

Hungarian has been introduced as a second foreign language or as an optional subject. In the 2019–2020 school year, for instance, 762 children studied Hungarian as a foreign language in Ukrainian-medium schools in Transcarpathia. Despite this, the Ministry of Education and Science of Ukraine has not published textbooks, dictionaries, or educational materials for the teaching of Hungarian as a foreign language.

***2. The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages.***

37. In Ukraine, External Independent Testing (hereinafter: EIT) for the subject “Ukrainian language and literature” was first introduced in 2008. Originally, this exam had been mandatory only for those students who wished to continue their studies in higher education, but later the government made it compulsory for all graduates from secondary school.
38. In the compulsory examination, all participants were required to meet the same requirements: Ukrainian-speaking students of Ukrainian-medium schools and Hungarian-speaking graduates of Hungarian-medium schools had to complete the same tasks.
39. Uniform requirements were established despite the fact that in Hungarian-language schools Ukrainian language and Ukrainian literature have been taught on the basis of different curricula and textbooks. This is discriminatory. Discrimination is exacerbated by the fact that Hungarian-medium schools teach the subject “Ukrainian language” in

much fewer hours than Ukrainian-medium schools. Students who undertook the compulsory EIT of Ukrainian language and literature in 2017 and graduated from a Hungarian-language school, learned the subject in a total amount of 1 050 hours from Grade 1 to Grade 11, according to the curriculum. In contrast, examinees graduating from Ukrainian-medium schools received a total amount of 1 627 Ukrainian language lessons in the same period. Thus, students who graduated from Hungarian-medium schools had 577 fewer Ukrainian language lessons (Table 2), but all the same, they were subject to the same requirements as their peers graduating from Ukrainian-medium schools.

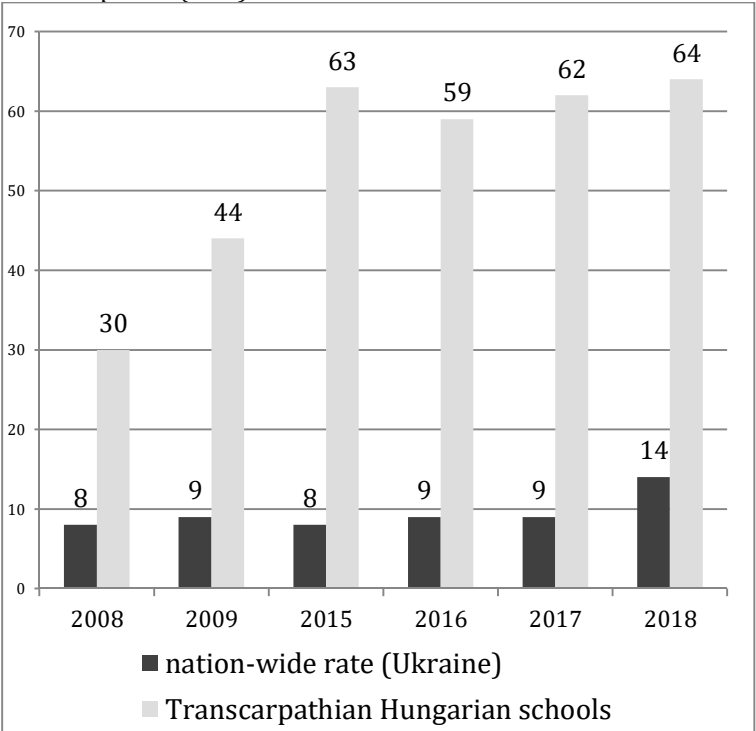
*Table 2. Number of hours for the subject “Ukrainian language” in Ukrainian- and Hungarian-medium schools, respectively (for those students who graduated from grade 11 in 2017)*

*SULI = Schools with Ukrainian as the Language of Instruction; SHLI = Schools with Hungarian as the Language of Instruction.*

Academic year	Grade	Number of lessons per week		The total amount of lessons in the academic year		Difference per academic year (lessons)
		SULI	SHLI	SULI	SHLI	
2006/2007	1	8	3	280	105	175
2007/2008	2	7	3	245	105	140
2008/2009	3	7	4	245	140	105
2009/2010	4	7	4	245	140	105
2010/2011	5	3,5	3	122	105	17
2011/2012	6	3	3	105	105	0
2012/2013	7	3	2	105	70	35
2013/2014	8	2	2	70	70	0
2014/2015	9	2	2	70	70	0
2015/2016	10	2	2	70	70	0
2016/2017	11	2	2	70	70	0
Total		46,5	30	1627	1050	577

40. Due to this obvious discrimination, many students of Hungarian-language schools were unable to achieve the required minimum score in the compulsory Ukrainian language and literature exam (Figure 3).

*Figure 3. Ratio of examinees who failed the External Independent Testing in “Ukrainian language and literature” (i.e. did not obtain the minimum score needed to be admitted to tertiary education) in Ukraine (all schools) and in the Hungarian schools in Transcarpathia (in %)*



41. Since 2008 (that is, the introduction of EIT), Transcarpathian Hungarian organizations have regularly drawn the attention to the negative discrimination taking place against Hungarians and other minorities. However, only in 2019 did the Ukrainian government allow different

minimum points to be set for students of Hungarian-language schools and students of Ukrainian-language schools, respectively.

42. On 14 November 2018, the government issued Decree No. 952,<sup>40</sup> which classified students of non-Slavic-medium schools, including Hungarians, as having special educational needs. Based on this government decree – for the first time in the history of the Ukrainian EIT system, organized since 2008! –, a lower passing score was set for students graduating from non-Slavic-medium schools at their assessment of the Ukrainian language and literature exam.
43. As a result, the proportion of students successfully passing the compulsory Ukrainian language and literature examination has significantly increased in all Hungarian-language schools (Table 3).

*Table 3. Ratio of examinees who failed the External Independent Testing in 'Ukrainian language and literature' (i.e. did not obtain the minimum score needed to be admitted to tertiary education) in Transcarpathian schools with Hungarian language of instruction in 2018 vs. 2019*

<b>Schools</b>	<b>2018</b>	<b>2019</b>
Солотвинська ЗОШ I-III ст. №3 ім. Яноша Бойої	57.14	0.00
Баркасівська ЗОШ I-III ст. з угорською мовою навчання	66.67	22.22
Батівська ЗОШ I-III ст.	73.33	35.29
Берегівська ЗОШ I-III ст. №4 з угорською мовою навчання ім. Лайоша Кошута	65.63	14.81

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<sup>40</sup> Постанова Кабінету Міністрів України «Про деякі категорії осіб з особливими освітніми потребами». [Decree of the Cabinet of Ministers of Ukraine “On certain categories of persons with special educational needs”]  
[http://search.ligazakon.ua/l\\_doc2.nsf/link1/KP180952.html?fbclid=IwAR1W0J6aqOD4wN30BIfkHt0w-a2B9MUfQ4oKgGSHZMcmDVBnVSb1u33SWc](http://search.ligazakon.ua/l_doc2.nsf/link1/KP180952.html?fbclid=IwAR1W0J6aqOD4wN30BIfkHt0w-a2B9MUfQ4oKgGSHZMcmDVBnVSb1u33SWc)

Берегівська ЗОШ I-III ст. №3 ім. Ілони Зріні	73.81	47.06
Берегівська ЗОШ I-III ст. №10	58.33	28.57
Берегівська угорська гімназія ім. Габора Бетлена	35.00	0.00
Чопська ЗОШ №2 ім. Іштвана Сечені	51.85	18.75
Чомська ЗОШ I-III ст.	90.91	87.50
Дерценська ЗОШ I-III ст.	83.33	25.00
Есенська ЗОШ I-III ст.	85.71	42.86
Чорнотисівська ЗОШ I-III ст.	76.19	32.00
Гатянська ЗОШ I-III ст. ім. Вільмоша Ковача	91.67	36.36
Яношівська ЗОШ I-III ст.	75.00	53.85
Яношівський ліцей сільськогосподарського профілю	84.09	19.51
Карачинський греко-католицький ліцей ім. О.Стойки	55.56	0.00
Косонський ліцей ім. Арань Яноша з угорською мовою навчання	80.95	15.79
Малодобронська ЗОШ I-III ст.	76.47	5.88
Малогеевецька ЗОШ I-III ст.	58.33	17.65
Мукачівська ЗОШ №3 ім. Ф.Ракоці II	36.36	0.00
Мукачівський ліцей ім. Святого Іштвана	8.33	0.00
Мужіївська ЗОШ I-III ст.	64.10	50.00
Великобerezька ЗОШ I-III ст.	65.63	44.44
Ліцей з гуманітарним та природничим профілем с. Великі Береги	45.95	9.38
Великодобронська ЗОШ I-III ст.	55.56	17.39
Ліцей з біолого-хімічним та фізико-математичним профілем навчання с. Велика Добронь	56.00	4.35
Великопаладська ЗОШ I-III ст.	100.00	21.43
Виноградівська ЗОШ I-III ст. №3 ім. Жігмонда Перені	42.86	0.00
Неветленфолівська ЗОШ I-III ст.	92.00	35.29
Пийтерфолівська ЗОШ I-III ст.	89.47	42.86
Шаланківська ЗОШ I-III ст.	66.67	41.67

Шишлівська ЗОШ I-III ст.	62.50	33.33
Сюртівська ЗОШ I-III ст.	57.14	20.00
Тячівський ліцей з угорською мовою навчання	17.07	0.00
Вилоцька ЗОШ I-III ст. №2	100.00	31.25
Пийтерфолвівський ліцей	25.00	0.00
Ужгородська ЗОШ I-III ст. №10 ім. Габора Дойки	0.00	13.33
Ужгородська угорськомовна гімназія ім. Другетів	5.88	0.00
Варіївська ЗОШ I-III ст. ім. Ференца Ракоці II	92.86	15.38
Вербовецька ЗОШ I-III ст.	66.66	14.29
Вишківський НВК I-III ст. ім. Ференца Келчеї	71.43	31.25

44. Unfortunately, however, there is no legal guarantee that in 2020 the Government will continue to provide the above opportunity, significantly reducing discrimination, for students of Hungarian-language schools during the compulsory Ukrainian language and literature exam.
45. Article 21 (3) of the Law on Supporting the Functioning of the State Language, adopted in 2019,<sup>41</sup> prescribes that External Independent Testing of all subjects (except foreign languages) shall be conducted in the State language. However, this creates inequality and competitive disadvantage for speakers of regional or minority languages. Pursuant to paragraph 1 of Section IX of the law, Ukraine shall postpone the implementation of this provision until 1 January 2030. However, discrimination will be discrimination in 2030, too.
46. Despite requests to this effect, the State has still not allowed the organization of EIT from Hungarian language and literature. This reduces the prestige of Hungarian as a regional or minority language.

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<sup>41</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>



***3. The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.***

47. The State of Ukraine does not ensure that school textbooks give an objective picture of users of regional or minority languages, or of national minorities.
48. In Ukraine, the media often provokes ethnic tensions. Since 2014, a media campaign has been launched on national television channels as well as in print and online media, depicting Hungarians living in Ukraine as a separatist group threatening the territorial integrity of Ukraine.
49. Article 1 (8) of the State Language Law of 2019 prescribes that in Ukraine the language of interethnic communication is Ukrainian.<sup>42</sup> With this provision, the State seriously violates the right to privacy, since it obliges Ukrainian citizens of, for example, Romanian or Hungarian mother tongue to use the Ukrainian language when communicating with each other (regardless of the situation). This provision is absurd and unenforceable, furthermore, it violates the linguistic human rights and privacy rights of citizens of non-Ukrainian mother tongues.
50. Article 6 (1) of the State Language Law<sup>43</sup> stipulates that “[e]ach citizen of Ukraine is required to be proficient in the

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<sup>42</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”] <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>43</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”] <https://zakon.rada.gov.ua/laws/show/2704-19>

State language”.<sup>44</sup> This provision is discriminatory. Regardless of the circumstances, the legislator declares every Ukrainian citizen a law-breaker who (for example, because of his age or for health reasons) does not speak Ukrainian. Due to the historical characteristics of Ukraine, there are many such people: according to the data of the latest (2001) official census in Ukraine, 13.42% of the population (6 472 794 persons) do not speak the official language.

51. The quoted part of the law is inapplicable in practice. The State has neither the right nor the ability to check all its citizens whether they can speak Ukrainian or not. However, this provision is capable of intimidating minority language speakers. Pursuant to the law, any official body or public official which/whom Ukrainian citizens address in a language other than Ukrainian may require proof that the given person is proficient in the State language. In practice, this means that public authorities can enforce the use of the State language in virtually every situation.

***4. In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages. They are encouraged to establish bodies, if necessary, for the purpose of advising the authorities on all matters pertaining to regional or minority languages.***

52. Representatives of the national minorities were not adequately consulted in the process of the preparation and adoption of the Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”. The Government of Ukraine has not created a body to advise on policy about regional or minority languages, nor has it created a legislative framework for dialogue with representatives of national minorities.

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<sup>44</sup> The original text: «Кожний громадянин України зобов’язаний володіти державною мовою».

## **Part III – Measures to promote the use of regional or minority languages in public life in accordance with the undertakings entered into under Article 2, paragraph 2**

### **Article 8 – Education**

***1 With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:***

53. Education in the Hungarian language has a significant historical tradition in the territory of today's Transcarpathia. Currently known as Transcarpathia, the region belonged to several different states in the past 150 years. However, the Kingdom of Hungary within the Austro-Hungarian Monarchy (1867–1918), the Czechoslovak Republic (1919–1938), Carpatho-Ukraine (1939), the Kingdom of Hungary (1939–1944) and the Soviet Union alike granted minorities the right and opportunity to mother tongue education.<sup>45</sup>
54. Ukraine, which became independent in 1991, also used to guarantee the right to mother tongue education to minorities living in its territory. Article 53 (5) of the Constitution of Ukraine<sup>46</sup> stipulates: “Citizens who belong to national minorities, in accordance with the law, are guaranteed the right to receive instruction in their native language, or to study their native language in State and communal educational establishments and through national cultural societies”. Similarly to the Constitution, the Law on

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<sup>45</sup> Csernicskó, István and Tóth, Mihály: *The right to education in minority languages: Central European traditions and the case of Transcarpathia*. Ungvár: Autdor-Shark, 2019. [http://hodinka-intezet.uz.ua/wp-content/uploads/2019/02/CsI\\_TM\\_THE\\_RIGHT\\_TO\\_EDUCATION\\_IN\\_MINORITY\\_LANGUAGES.pdf](http://hodinka-intezet.uz.ua/wp-content/uploads/2019/02/CsI_TM_THE_RIGHT_TO_EDUCATION_IN_MINORITY_LANGUAGES.pdf)

<sup>46</sup> Конституція України. [Constitution of Ukraine] <http://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>

National Minorities<sup>47</sup> states in relation to education of minorities: „The State guarantees to all national minorities the rights to national-cultural autonomy: learning in their native languages or learning of their native languages in State educational establishments or through national cultural societies” (Article 6). The same is repeated in Article 19 (3) of the Law on the Protection of Childhood.<sup>48</sup> Article 25 of the earlier Language Law<sup>49</sup> – adopted in 1989, before the independence of Ukraine, and in force until 2012 – codified even more extensive rights: „The free choice of the language of instruction is an inalienable right of the citizens of the Ukrainian SSR. The Ukrainian SSR guarantees every child the right to upbringing and education in their mother tongues. This right is ensured by the establishment of pre-school and other educational institutions in which education is conducted in Ukrainian or another national language.” Pursuant to Article 20 of the Language Law adopted in 2012,<sup>50</sup> „the free choice of the language of instruction is an inalienable right of the citizens of Ukraine, [...] subject to compulsory study of the State language to an extent sufficient for integration into Ukrainian society.” According to the same article of the law, citizens of Ukraine are guaranteed education in the State language as well as in regional or minority languages at all levels of education, from kindergarten to university.

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<sup>47</sup> Закон України «Про національні меншини в Україні». [Law of Ukraine "On National Minorities in Ukraine"] <http://zakon2.rada.gov.ua/laws/show/2494-12>

<sup>48</sup> Закон України «Про охорону дитинства». [Law of Ukraine "On the Protection of Childhood"] <http://zakon2.rada.gov.ua/laws/show/2402-14>

<sup>49</sup> Закон України «Про мови в Українській РСР», [Law of Ukraine "On the Languages of the Ukrainian SSR"] <<http://zakon3.rada.gov.ua/laws/show/8312-11>>.

<sup>50</sup> Закон України «Про засади державної мовної політики». [Law of Ukraine "On Principles of the State Language Policy"] <http://zakon2.rada.gov.ua/laws/show/5029-17>

55. Comparing the above norms with Ukraine's commitments in the field of education in minority languages under the Charter, there is a clear difference in favor of the national legislation. In fact, Kyiv undertook much weaker commitments in relation to minority language education than those codified in its domestic jurisprudence. Moreover, during the ratification, Ukraine failed to take into account that for several minority languages (e.g. Russian, Hungarian, Romanian) there exist extensive networks of educational institutions in the country.
56. Until 2017, Ukrainian legislation defined the right to choose the language of instruction as an inalienable civil right.<sup>51</sup> However, Article 7 of the new Law on Education of 2017<sup>52</sup> and Article 21 of the State Language Law of 2019<sup>53</sup> have significantly changed the rules related to the language of education. These two laws abolished the right of citizens to choose the language of education. This right used to be provided to the citizens of Ukraine during the existence of the Soviet Union, and was also granted to the citizens of independent Ukraine from 1991 to 2017. Therefore, the new laws revoked a right of significant historical tradition.
57. Due to the great interest in the Hungarian language, hundreds of Ukrainian-speaking parents enroll their children in Hungarian-language schools. In turn, the new Education Law deprives citizens of the freedom to choose

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<sup>51</sup> Csernicskó, István and Tóth, Mihály: *The right to education in minority languages: Central European traditions and the case of Transcarpathia*. Ungvár: Autdor-Shark, 2019.  
[http://hodinkaintezet.uz.ua/wp-content/uploads/2019/02/CsI\\_TM\\_THE\\_RIGHT\\_TO\\_EDUCATION\\_IN\\_MINORITY\\_LANGUAGES.pdf](http://hodinkaintezet.uz.ua/wp-content/uploads/2019/02/CsI_TM_THE_RIGHT_TO_EDUCATION_IN_MINORITY_LANGUAGES.pdf)

<sup>52</sup> Закон України «Про освіту». [Law of Ukraine "On Education"]  
<https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>53</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine "On Supporting the Functioning of the Ukrainian Language as the State Language"]  
<https://zakon.rada.gov.ua/laws/show/2704-19>

the language of instruction. This right is withdrawn not only from speakers of regional or minority languages but also from persons belonging to the majority society.

58. Pursuant to Article 7 (1) of the new Law on Education,<sup>54</sup> adopted on 5 September 2017, in Ukraine “[t]he language of the educational process in educational institutions shall be the State language”. Article 7 (4) states that for minorities, “one or more subjects may be taught in two or more languages – the State language, English, and other official languages of the European Union”.
59. It is clear that Article 7 of the new Education Law is incompatible with Article 20 of the 2012 Language Law. However, the Constitutional Court of Ukraine, in its ruling of 28 February 2018,<sup>55</sup> annulled the Language Law, thus eliminating the contradiction between the two laws.<sup>56</sup>
60. Article 5 of the Law of Ukraine on General Secondary Education is meant to explain Article 7 of the new Law on Education. However, so far only a draft<sup>57</sup> of the this law has

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<sup>54</sup> Закон України «Про освіту». [Law of Ukraine "On Education"] <http://zakon.rada.gov.ua/laws/show/2145-19>

<sup>55</sup> Рішення Конституційного Суду України У справі за Конституційним поданням 57 народних депутатів України щодо невідповідності Конституції України (неконституційності) Закону України «Про засади державної мовної політики» від 28.02.2018 р. № 2-п/2018. <http://zakon.rada.gov.ua/laws/show/v002p710-18>

<sup>56</sup> It may be recalled that in 2000 the first law on the ratification of the Charter was also repealed by the Constitutional Court in Kyiv on formal grounds. It is noteworthy, however, that although opposition MPs requested the Constitutional Court to annul the Education Law, in their reasoning referring to formal reasons similar to those for which the Language Law had been repealed, the Constitutional Court ruled in favor of the Education Law. See the decision here: [http://ccu.gov.ua/sites/default/files/docs/10\\_p\\_2019\\_0.pdf](http://ccu.gov.ua/sites/default/files/docs/10_p_2019_0.pdf)

<sup>57</sup> Проект Закону України «Про загальну середню освіту». [Draft Law of Ukraine "On General Secondary Education"] <https://mon.gov.ua/ua/news/mon-proponuye-dlya-gromadskogo->

been prepared and it has been discussed only in first reading by the Kyiv Parliament (as end of 2019).

61. On 25 April 2019, the Kyiv Parliament passed a law on the State language,<sup>58</sup> Article 21 of which virtually reproduces Article 7 of the Law on Education and Article 5 of the draft law on secondary education.
62. Under Article 7 of the new Law on Education of 2017<sup>59</sup> and Article 21 of the State Language Law of 2019,<sup>60</sup> the citizens of Ukraine are divided into four major groups based on their rights related to the language of education. The first group is the majority (Ukrainians): they are not affected by legislative changes, as they can continue to study in their mother tongue at all levels of education. Persons belonging to indigenous peoples (in fact, the Crimean Tatars)<sup>61</sup> can pursue their studies in their mother tongue „along with the

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<sup>58</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”] <https://zakon.rada.gov.ua/rada/show/2704-19#n614>

<sup>59</sup> Закон України «Про освіту». [Law of Ukraine “On Education”] <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>60</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”] <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>61</sup> The term “indigenous people” (in Ukrainian: корінний народ) was introduced into the Ukrainian legal system by Article 11 of the Constitution of Ukraine. The legal interpretation of the concept is still awaited. A parliamentary decision of February 2014 classifies the Crimean Tatar people as “indigenous people”: Постанова Верховної Ради України № 1140-VII від 20.03.2014 «Про Заяву Верховної Ради України щодо гарантії прав кримськотатарського народу у складі Української Держави». [Resolution of the Verkhovna Rada of Ukraine No. 1140-VII of 20.03.2014 “On the Statement of the Verkhovna Rada of Ukraine on Guaranteeing the Rights of the Crimean Tatar People in the Ukrainian State”] <http://zakon2.rada.gov.ua/laws/show/1140-18>

State language". Persons belonging to national minorities (Hungarians, Romanians, Poles, Bulgarians) whose languages are official languages of the European Union may receive education in their mother tongue in primary schools, but in grade 5 at least 20% of the annual amount of lessons should be taught in the State language. This scope has to reach at least 40% by grade 9 and 60% by grades 10–12. National minorities whose languages are not official in the EU (Russians, Belarusians) receive education in the State language in scope of not less than 80 percent of the annual amount of study time from grade 5 onwards (Table 4).

*Table 4. Percentage of the use of mother tongue at different levels of public education, pursuant to Article 7 of the Law on Education of 2017, Article 5 of the draft law on general secondary education, and Article 21 of the State Language Law*

	Grades 1–4	5 <sup>th</sup> grade	9 <sup>th</sup> grade	Grades 10–12	Who are they?
persons belonging to the majority	100	100	100	100	Ukrainians
indigenous people	100	100	100	100	Crimean Tatars
minorities whose languages are official in the EU	100	80	60	40	Hungarians, Romanians
minorities whose languages are <i>not</i> official in the EU	100	20	20	20	Russians

63. According to the Para. (3) of Section IX of the State Language Law passed in 2019,<sup>62</sup> schools having Russian or Hungarian as the language of instruction will have to switch to the educational model presented in Table 4 in 2020 and 2023, respectively. However, the deferral for schools having

<sup>62</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine "On Supporting the Functioning of the Ukrainian Language as the State Language"] <https://zakon.rada.gov.ua/laws/show/2704-19>

Russian, Hungarian, Romanian, etc. as the language of instruction applies only on condition that the number of subjects taught in the State language will be gradually increased.

64. The Venice Commission strongly condemned the distinction of national minorities on the basis whether their mother tongue is an official EU language or not.<sup>63</sup> The Venice Commission expressed this position not only in its opinion<sup>64</sup> on the Law of Ukraine “On Education” but also in its opinion on the Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”, which was adopted on December 9, 2019. In the meantime, the Kyiv government has prepared a Draft Law of Ukraine “On General Secondary Education” for a second reading.
65. If we look at the comparison table on the official website of the Verkhovna Rada of Ukraine<sup>65</sup>, which compares the text of the draft law on general secondary education, adopted at the first reading, with the text prepared in the second reading, we may see some changes regarding Article 5 on “The language of education in general secondary education.” The comparison shows that the drafters of the new text eliminated the distinction between national minorities in the country and gave equal rights to education in their mother

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<sup>63</sup> Opinion on the Law on Education of 5 September 2017 on the use of the State Language and Minority and other languages in education. Adopted by the Venice Commission at its 113th Plenary Session (8-9 December 2017). Strasbourg (Fr), Dec. 2017, 11. 25 p. Opinion no. 902/2017 CDL-AD (2017) 030. [https://www.venice.coe.int/-webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/-webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e)

<sup>64</sup> OPINION ON THE LAW ON SUPPORTING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE. Opinion No. 960/2019. Strasbourg, 9 December 2019. [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)

<sup>65</sup> Порівняльна таблиця до другого читання 11.07.2019. [Comparison table for the second reading 11.07.2019.] [https://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=66333](https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66333)

tongue, regardless of whether their language is an official language in the EU or not. Although this amendment will bring about positive changes for the Russian community, it will be extremely devastating for the Hungarians of Transcarpathia. Table 5 shows the differences in the wording of Article 5 of the draft law between its different versions.

*Table 5. Percentage of the use of languages of national minorities at different levels of education based on two revisions of Article 5 of the Draft Law of Ukraine "On General Secondary Education"*

*(a): Version at the first reading; (b) The version as proposed in the final reading*

	Grades 1-4		5 <sup>th</sup> grade		9 <sup>th</sup> grade		Grades 10-12	
	(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)
minorities whose languages are official in the EU	100	80	80	80	60	40	40	30
minorities whose languages are <u>not</u> official in the EU	100	80	20	80	20	40	20	30

66. Table 5 shows the following: (1) The proposed changes do not affect people belonging to the majority and indigenous peoples. (2) The new version of Article 5 provides that on the elementary level 20% of the subjects must be taught in the state language. This is clearly a negative amendment. (3) The new text narrows the gap between the categories of national minorities in grade 5 by significantly increasing the proportion of subjects taught in a minority language in one group, while keeping everything unchanged in the other. (4)

By the end of Grade 9 and Grades 10-12, the new version of Article 5 will reduce the use of the mother tongue in the educational process for national minorities whose languages are official languages of the EU, and increase the use of the mother tongue for national minorities whose languages are not official languages of the EU.

67. Considering that until the adoption of the new Law on Education of 2017, every citizen of Ukraine had the right to pursue their studies in their mother tongue at all levels of education, it is clear that the new laws narrow that right.
68. Article 7 of the Law on Education<sup>66</sup> virtually eliminates the teaching in regional or minority languages in vocational and higher education. At these levels of education, regional or minority languages may only appear as a subject (but not as the language of instruction).
69. Pursuant to Article 22 (3) of the Law on Education,<sup>67</sup> in Ukraine there are four forms of educational institutions according to their ownership: State, communal, private or corporate.<sup>68</sup> The founders and maintainers of communal educational institutions are the (county, district or municipality) self-governments.
70. Article 7 of the Law on Education of 2017<sup>69</sup> and Article 21 of the State Language Law of 2019<sup>70</sup> provide for education in

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<sup>66</sup> Закон України «Про освіту». [Law of Ukraine "On Education"] <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>67</sup> Закон України «Про освіту». [Law of Ukraine "On Education"] <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>68</sup> In the original text: «державний, комунальний, приватний, корпоративний.»

<sup>69</sup> Закон України «Про освіту». [Law of Ukraine "On Education"] <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>70</sup> Закон України «Про забезпечення функціонування української мови як державної». [Law of Ukraine "On Supporting the Functioning of the Ukrainian Language as the State Language"] <https://zakon.rada.gov.ua/laws/show/2704-19>

the State language (Ukrainian) at all levels of education in State and communal educational institutions.

71. However, these two laws (in their provisions quoted above) permit education in regional or minority languages only in communal institutions. This means that the Ukrainian government banishes regional or minority languages from State educational institutions. This is an obvious case of discrimination.
72. Article 53 (5) of the Constitution of Ukraine<sup>71</sup> stipulates: „Citizens who belong to national minorities, in accordance with the law, are guaranteed the right to receive instruction in their native language, or to study their native language in State and communal educational establishments and through national cultural societies”. The 1999 decision of the Constitutional Court of Ukraine also ascertains that „[i]n State and communal educational institutions, along with the State language [...], the languages of national minorities may be used and learned in the educational process”.<sup>72</sup> Therefore,

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<sup>71</sup> Конституція України. [Constitution of Ukraine] <http://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>

<sup>72</sup> In Ukrainian: «У державних і комунальних навчальних закладах поряд з державною мовою (...) в навчальному процесі можуть застосовуватися та вивчатися мови національних меншин». Lásd: Рішення Конституційного Суду України у справі за конституційними поданнями 51 народного депутата України про офіційне тлумачення положень статті 10 Конституції України щодо застосування державної мови органами державної влади, органами місцевого самоврядування та використання її у навчальному процесі в навчальних закладах України (справа про застосування української мови) від 14 грудня 1999 року № 10-пп/99 [Decision of the Constitutional Court of Ukraine on the constitutional petitions of 51 deputies of Ukraine on the official interpretation of Article 10 of the Constitution of Ukraine on the use of the State language by State authorities, local self-government bodies and in the educational process in educational establishments of Ukraine (the case on the use of the Ukrainian language) December 14, 1999 No. 10-RP/99] <https://zakon.rada.gov.ua/laws/show/v010p710-99>

the constitution of the country guarantees the right to education in the mother tongue or to the teaching of the mother tongue in State schools, as well. Since Article 7 of the Law on Education and Article 21 of the State Language Law exclude regional or minority languages from State education institutions, the cited parts of these two laws are unconstitutional.

73. The Law on Higher Education was adopted by the Supreme Council of Ukraine on 1 July 2014.<sup>73</sup> Article 48 of the law regulated the language of instruction in higher education. According to Article 48 (1), the language of higher education shall be Ukrainian. Article 48 (2) granted higher education institutions the right to teach one or more subjects in English or in other foreign languages in special groups set up for this purpose, while providing compulsory instruction in the State language. Article 48 (3) allowed private higher education institutions to choose the language of instruction, subject to compulsory provision of the teaching of the State language as a separate subject. Article 48 (4) provided for the teaching of languages of national minorities as subjects in higher education. However, Article 7 of the Law on Education of 2017<sup>74</sup> and Article 21 of the State Language Law of 2019<sup>75</sup> regulate the use of languages in education differently. As a consequence, on 25 April 2019, Article 48 of the Law on Higher Education was modified with reference to the two above-mentioned laws. Article 48 (1) remains unchanged. Under Article 48 (2), as amended, the language of instruction in higher education is governed by the Law on the Supporting of the State Language and the Law on

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<sup>73</sup> Закон України «Про вищу освіту» [Law of Ukraine "On Higher Education"]. <https://zakon.rada.gov.ua/laws/show/1556-18/ed-20140701>

<sup>74</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>75</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19#n713>

Education. Paragraphs 3 and 4 of the original wording of Article 48 were deleted from the text of the Law on Higher Education.<sup>76</sup> This change means that Ukraine has abolished the right of private higher education institutions to choose the language of education.

74. Article 7 of the Education Law<sup>77</sup> and Article 21 of the State Language Law<sup>78</sup> abolished the right of private educational institutions to choose the language of instruction not only with regard to higher education institutions. The opinion issued by the Venice Commission on the Law on Education<sup>79</sup> also emphasizes that the State should exclude private educational institutions from under the scope of Article 7 of the Law. However, this did not happen.
75. Article 7 (1) of the Law on Education<sup>80</sup> stipulates: „Persons belonging to national minorities of Ukraine are guaranteed the right to receive pre-school and primary education in communal educational institutions in the language of the respective national minority, along with the State language. This right shall be realized by setting up, in accordance with

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<sup>76</sup> Both the original (as adopted in 2014) and the amended versions of Article 48 of the Law on Higher Education are available online. The original text: <https://zakon.rada.gov.ua/laws/show/1556-18/ed20140701>. The amended text: <https://zakon.rada.gov.ua/laws/show/1556-18>.

<sup>77</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>78</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19#n713>

<sup>79</sup> Par. 105. Opinion on the provisions of the Law on Education of 5 September 2017 which concern the use of the State language and minority and other languages in education. Adopted by the Venice Commission at its 113th Plenary Session (8-9 December 2017). Strasbourg (Fr), 11 December 2017. 25 p. Opinion no. 902/2017 CDL-AD (2017) 030. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e)

<sup>80</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/laws/show/2145-19>

the law, of separate classes (groups) providing education in the language of the respective national minority, along with the State language, and shall not apply to classes (groups) providing education in Ukrainian.” Article 21 (1) of the State Language Law contains the same provisions.<sup>81</sup>

76. It follows from the provisions quoted from Article 7 of the Law on Education<sup>82</sup> and Article 21 of the State Language Law<sup>83</sup> that the State of Ukraine abolishes the institutional autonomy of educational establishments (kindergartens, schools) teaching in regional or minority languages (since it only allows the functioning of *classes* in minority languages). This is an obvious case of discrimination.
77. Abolishing the institutional autonomy of kindergartens and schools providing education in regional or minority languages is a drastic step. If Article 7 of the Law on Education and Article 21 of the State Language Law were applied by Kyiv today, the tables on page 156 of the Fourth Periodic Report would contain only two rows: Ukrainian-medium institutions, and institutions with several languages of instruction.
78. Thus, pursuant to the two laws above, Ukrainian-language groups and classes have to be opened in kindergartens and schools providing education in Russian, Hungarian, Romanian, Moldovan and Polish languages. In many municipalities, it is difficult to implement this provision in practice. For example, according to official census data from 2001, there were 44 localities in Transcarpathia where the proportion of Hungarian native speakers exceeded 90

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<sup>81</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

<sup>82</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>83</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

percent. To mention only a few of these, the proportion of Hungarian native speakers was 98.2% in Badaló (Бадалово), 98.1% in Vári (Вари), 96.1% in Kaszony (Косино), 97.7% in Nagydobrony (Велика Добронь), 97.6% in Eszeny (Есень), 96.7% in Tiszaásvány (Тисаашвань), and 94.8% in Szalóka (Соловка). Pursuant to Article 7 of the Law on Education<sup>84</sup> and Article 21 of the State Language Law,<sup>85</sup> in kindergartens and schools of these villages Ukrainian-medium groups and classes shall be established.

79. As most of these localities have small populations, there is no realistic possibility for setting up parallel – Ukrainian- and Hungarian-medium – groups and classes in kindergartens and schools. This could lead to the closure of institutions, which endangers the survival of Hungarian as a regional or minority language.
80. In those localities where parallel Ukrainian- and Hungarian-language classes will be established, the use of regional or minority language will necessarily be reduced. In practice, it is inconceivable that every kindergarten and school ceremony and public event is conducted in both languages (for example, it is not possible to keep the attention of the children indefinitely by saying everything in Ukrainian as well as Hungarian). And if there is a need to choose from among the languages (for example, pursuant to enforcement measures of the State Language Law), the kindergarten or school management will most likely decide to use the State language.
81. The elimination of the autonomy of institutions providing education in regional or minority languages removes these languages from a very important public sphere.

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<sup>84</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/laws/show/2145-19>

<sup>85</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

82. According to Article 7 of the Law on Education<sup>86</sup> and Article 21 of the State Language Law,<sup>87</sup> in Ukraine the use of regional or minority languages in education is permitted only “along with the State language” [in Ukrainian: «поряд із державною мовою»]. In turn, nowhere does the legislator define what this means in practice. This creates legal uncertainty and makes it difficult to organize education in regional or minority languages.
83. The official position of Ukraine is that the new provisions contained in Article 7 of the Law on Education<sup>88</sup> and Article 21 of the State Language Law<sup>89</sup> are fully in line with Ukraine’s international commitments. Seemingly, this is indeed the case: Kyiv guarantees the right to learn the mother tongue and that native languages of minorities appear at all levels of public education as subjects (but not as languages of instruction). With the ratification of the Charter, Ukraine has committed to just that, nothing more.
84. It is important to emphasize, however, that when ratifying the Charter, Ukraine undertook such obligations in the field of education that were significantly below the rights and opportunities that at that time were guaranteed under domestic law and existed in practice. The application of the legal provisions laid down in Article 7 of the Law on Education<sup>90</sup> and Article 21 of the State Language Law<sup>91</sup> will

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<sup>86</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>87</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

<sup>88</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>89</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

<sup>90</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

lead to a significant decrease in the presence of several regional or minority languages (e.g. Russian, Romanian or Hungarian) in the educational process.

85. It is impermissible for Ukraine to use its obligations under the Charter to reduce existing statutory rights. This is contrary to the aims and spirit of the Charter.
86. It must be stressed that under Article 22 (3) of the Constitution of Ukraine,<sup>92</sup> the narrowing of rights is unconstitutional. When enacting new laws, it is prohibited to curtail existing rights.
87. Article 7 of the Law on Education has also been criticized by the Parliamentary Assembly of the Council of Europe<sup>93</sup> and the Venice Commission.<sup>94</sup>
88. On 6 October 2017, 48 Members of Parliament submitted a petition<sup>95</sup> to the Constitutional Court of Ukraine requesting it

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<sup>91</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>92</sup> Конституція України. <https://zakon.rada.gov.ua/laws/show/-254%D0%BA/96-%D0%B2%D1%80>

<sup>93</sup> The new Ukrainian law on education: a major impediment to the teaching of national minorities' mother tongues. <http://assembly.coe.int/nw/xml/XRef/Xref-XHTML-en.asp?fileid=24218&lang=en>

<sup>94</sup> Opinion on the provisions of the Law on Education of 5 September 2017 which concern the use of the State language and minority and other languages in education. Adopted by the Venice Commission at its 113th Plenary Session (8-9 December 2017). Strasbourg (Fr), 11 December 2017. 25 p. Opinion no. 902/2017 CDL-AD (2017) 030. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e)

<sup>95</sup> Конституційне Подання щодо відповідності Конституції України (неконституційності) Закону України «Про освіту» від 05 вересня 2017 року № 2145-VIII [Constitutional petition on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Education" of 5 September 2017, No. 2145-VIII]. [http://www.ccu.gov.ua/sites/default/files/3\\_4072.pdf](http://www.ccu.gov.ua/sites/default/files/3_4072.pdf)

to declare that the Law on Education<sup>96</sup> is unconstitutional. However, the Constitutional Court, in its ruling of 16 July 2019, did not find Article 7 of the Law on Education unconstitutional.<sup>97</sup>

89. The Constitutional Court's decision of 16 July 2019<sup>98</sup> on the Law on Education<sup>99</sup> makes no mention of the relevant opinion of the Venice Commission of December 2017<sup>100</sup> or the criticisms and recommendations therein.
90. The Constitutional Court ignored the recommendations of the Venice Commission despite the specific request in paragraph 15 of the resolution of the Parliamentary Assembly of the Council of Europe, issued on 12 October

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<sup>96</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>97</sup> Рішення Конституційного Суду України у справі за конституційним поданням 48 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про освіту» № 10-р/2019 [Decision of the Constitutional Court of Ukraine No. 10-р/2019 in the case of the constitutional petition of 48 Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Education"]. [http://ccu.gov.ua/sites/default/files/docs/10\\_p\\_2019\\_0.pdf](http://ccu.gov.ua/sites/default/files/docs/10_p_2019_0.pdf)

<sup>98</sup> Рішення Конституційного Суду України у справі за конституційним поданням 48 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про освіту» № 10-р/2019 [Decision of the Constitutional Court of Ukraine No. 10-р/2019 in the case of the constitutional petition of 48 Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Education"]. [http://ccu.gov.ua/sites/default/files/docs/10\\_p\\_2019\\_0.pdf](http://ccu.gov.ua/sites/default/files/docs/10_p_2019_0.pdf)

<sup>99</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>100</sup> Opinion on the provisions of the Law on Education of 5 September 2017 which concern the use of the State language and minority and other languages in education. Adopted by the Venice Commission at its 113th Plenary Session (8-9 December 2017). Strasbourg (Fr), 11 December 2017. 25 p. Opinion no. 902/2017 CDL-AD (2017) 030. [https://www.venice.coe.int/webforms/documents/-default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/-default.aspx?pdffile=CDL-AD(2017)030-e)

2017: “The Assembly asks the Ukrainian authorities to fully implement the forthcoming recommendations and conclusions of the Venice Commission and to amend the new Education Act accordingly.”<sup>101</sup>

91. On 31 October 2019, the NATO–Ukraine Commission issued a statement in Kyiv.<sup>102</sup> Paragraph 6 of the document concludes as follows: „With regard to the Law on Education adopted by the Verkhovna Rada in September 2017, Allies urge Ukraine to fully implement the recommendations and conclusions of the Venice Commission. Ukraine is committed to doing so.”
92. We would also like to call the attention to an official statement previously made by the Committee of Experts, according to which „the undertakings entered into [...] under Article 8 require the authorities to make available regional or minority language education at the different levels of education. This implies that the offer needs to precede the demand, i.e. that the education has to be planned and organised, in co-operation with the speakers”.<sup>103</sup>
93. We ask the Committee of Experts to declare that the practice of the Ukrainian authorities concerning the provision of education in regional or minority languages does not meet the requirements of the Charter. This is confirmed in the copinion of the Venice Commission on Article 21 of the Law

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<sup>101</sup> Resolution 2189 (2017) of Parliamentary Assembly. The new Ukrainian law on education: a major impediment to the teaching of national minorities’ mother tongues. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24218&lang=en>

<sup>102</sup> Statement of the NATO–Ukraine Commission. [https://www.nato.int/cps/en/natohq/official\\_texts\\_170408.htm](https://www.nato.int/cps/en/natohq/official_texts_170408.htm)

<sup>103</sup> See for example the 4th Report of the Committee of Experts on the Slovak Republic, ECRML(2016)2, paragraph 319. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806dba3e>

of Ukraine “On Ensuring the Functioning of the Ukrainian Language as State Language”.<sup>104</sup>

*pre-school education: iii. to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient;*

*primary education: iv. to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;*

*secondary education: iv. to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;*

*technical and vocational education: iv. to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;*

*higher education: iii. if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;*

*adult and continuing education: iii. if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;*

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<sup>104</sup> CDL-AD(2019)032. EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). UKRAINE. OPINION ON THE LAW ON SUPPORTING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE. Opinion No. 960/2019. Strasbourg, 9 December 2019. [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)

94. As stated in the report of the Ukrainian government, in the academic year of 2018/2019 there were several educational institutions in Ukraine at all levels of education (including higher education) where the language of instruction was a regional or minority language. This also shows that, during the ratification of the Charter, Kyiv undertook such obligations in relation to education that were below the realistic level for several regional or minority languages.
95. Nowhere does Kyiv determine exactly how many parents' requests are needed to set up a kindergarten group in the Hungarian (or other) language. Nowhere is it defined what is meant by the condition "whose number is considered sufficient", either. This makes parents vulnerable and makes unnecessarily difficult to organize education in regional or minority languages, because it is up to the State authorities to decide how many parents' requests are considered "sufficient" to open a Hungarian-language kindergarten group or school class.
96. This problem applies to all levels of education and must be solved.

***g. to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;***

97. The subject "History of National Minorities" is not part of State curricula. Representatives of the Hungarian community have repeatedly requested the authorities to include "History of the Hungarian People" as part of the curriculum of Hungarian-medium schools but Kyiv has only allowed this in the form of optional classes.

***i. to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.***

98. No such body exists in Ukraine.

## **Article 9 – Judicial authorities**

**1. The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:**

**a. in criminal proceedings: iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language;**

**b. in civil proceedings: iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translation;**

**c. in proceedings before courts concerning administrative matters: iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translation;**

99. According to Article 29 of Ukraine's Code of Criminal Procedure,<sup>105</sup> anyone who does not speak or know the State language at an appropriate level may give evidence in their mother tongue or in a language they know.

100. Article 6 (1) of the State Language Law,<sup>106</sup> adopted on 25 April 2019, obliges every citizen of Ukraine to be proficient in the Ukrainian State language. Referring to this, Ukraine may deny the use of regional or minority languages in court proceedings and litigation (since if mastering the Ukrainian language is a legal requirement, non-proficiency is illegal).

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<sup>105</sup> Кримінальний процесуальний кодекс України. [Ukraine's Code of Criminal Procedure] <https://zakon.rada.gov.ua/-laws/show/4651-17>

<sup>106</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

**2. The Parties undertake: c. not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.**

**3. The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.**

101. Laws of Ukraine are adopted and published only in the Ukrainian language on the official website of the Supreme Council of Ukraine<sup>107</sup> and in official newspapers: *Голос України, Урядовий кур'єр, Офіційний вісник*.

102. The State has failed to translate the most important laws into regional or minority languages. Not even laws regulating the use of regional or minority languages have been translated officially. The law on the ratification of the Charter is also available in Ukrainian only.

103. Pursuant to Article 13 of the State Language Law adopted on 25 April 2019,<sup>108</sup> laws and regulations in Ukraine shall be adopted and published in the State language. The law only allows that laws and regulations be published also in the Crimean Tatar language (because it is a native language in Ukraine). There is no mention of the possibility of publishing laws, regulations and other legal documents in other regional or minority languages.

## **Article 10 – Administrative authorities and public services**

**2. In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures**

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<sup>107</sup> <http://zakon5.rada.gov.ua/laws>

<sup>108</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

*specified below, the Parties undertake to allow and/or encourage:*

*a. the use of regional or minority languages within the framework of the regional or local authority;*

*c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;*

*d. the publication by local authorities of their official documents also in the relevant regional or minority languages;*

*e. the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*

*f. the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*

*g. the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.*

104. According to Article 1 (1) of the State Language Law adopted on 25 April 2019,<sup>109</sup> „[t]he Ukrainian language shall be the only State (official) language in Ukraine”. This means that in Ukraine, languages other than Ukrainian cannot have the status of an official language, not even at the regional level. According to the latest (2001) census of Ukraine, 80% of the population of the Berehove / Березівський / Beregszászi district are Hungarian native speakers. Pursuant to the quoted law, not even in this district may the Hungarian language be used as an official language alongside the State language.

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<sup>109</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

105. The provision which defines Ukrainian as the only official language of Ukraine is contrary to Article 10 of the Constitution of Ukraine.<sup>110</sup> A decision of the Constitutional Court of Ukraine, issued on 14 December 1999, declared that State and municipal bodies may use Russian as well as the languages of other national minorities in addition to the State language.<sup>111</sup>
106. Article 1 (7) of the State Language Law prescribes the use of the State language „in the exercise of powers by government authorities and local self-government authorities, as well as in other common spheres of public life determined by this Law”. The law thus makes it virtually impossible to use regional or minority languages in the work of State authorities and local self-government bodies.
107. Articles 12 and 13 of the State Language Law<sup>112</sup> stipulate that the working language of government authorities as well as local and regional authorities shall be the State language.

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<sup>110</sup> Конституція України [Constitution of Ukraine]. <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>

<sup>111</sup> Рішення Конституційного Суду України у справі за конституційними поданнями 51 народного депутата України про офіційне тлумачення положень статті 10 Конституції України щодо застосування державної мови органами державної влади, органами місцевого самоврядування та використання її у навчальному процесі в навчальних закладах України (справа про застосування української мови) від 14 грудня 1999 року № 10-рп/99 [Decision of the Constitutional Court of Ukraine on the constitutional petitions of 51 deputies of Ukraine on the official interpretation of the provisions of Article 10 of the Constitution of Ukraine on the use of the state language by state authorities, local self-government bodies and in the educational process in educational establishments of Ukraine (the case on the use of the Ukrainian language), 14 December 1999, No. 10-RP/99] <https://zakon.rada.gov.ua/laws/show/v010p710-99>

<sup>112</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

108. Article 12 (2) of the law permits, in principle, the use of other languages at meetings of State bodies and regional and local authorities. In such cases, however, it is mandatory to translate everything that has not been said in the State language into Ukrainian. This makes it impossible to hold meetings of local self-governments in regional or minority languages.
109. Pursuant to Article 13 (3) of the State Language Law<sup>113</sup>, decisions and documents of regional and local authorities shall be made public in the State language.
110. Article 37 of the State Language Law<sup>114</sup> prescribes that the language of documents and correspondence of political parties and public associations shall be the State language.
111. According to Article 41 (1) of the State Language Law,<sup>115</sup> geographical names, as well as the names of squares, avenues, streets, other public designations, bridges, etc., shall be used in the Ukrainian language.
112. Article 41 (3) of the law requires that geographical names be displayed in the State language in transcription (transliteration) from the original language into Ukrainian. This means, for example, that in Hungarian textbooks used in Ukrainian schools, the name of the city of *Kuiß* cannot be used in the form of *Kijev* according to the traditions of the Hungarian language, but only the version of *Kyiv* can be used in the Hungarian texts as well.

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<sup>113</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

<sup>114</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

<sup>115</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

113. Pursuant to Article 41 (4) of the State Language Law,<sup>116</sup> inscriptions on geographical signs (for example, signboards of city names or street names) shall be conveyed in the Ukrainian language. Below or to the right of the Ukrainian inscription (in smaller font size), the geographical name can also be displayed in a transcript of Latin characters. This provision excludes the traditional use of geographical names (names of cities, villages, streets, squares, rivers, mountains, etc.) in regional or minority languages. This means that according to the law, instead of city names such as *Ungvár*, *Beregszász*, *Munkács*, *Nagyszőlős*, etc., having been used in the Hungarian language for hundreds of years, the names of these localities may only appear on signs as *Uzhhorod*, *Berehove*, *Mukacheve*, *Vynohradiv*. This is a significant step back from the previous and current practice, since today (October 2019) the signboards of nearly a hundred localities include the traditional Hungarian name along with the Ukrainian name (Figure 4).

114. Article 39 (3) of the State Language Law<sup>117</sup> requires that the nameplates, official documents, seals and stamps of State authorities, local self-government bodies, State- and community-owned enterprises and institutions shall be inscribed in the State language. Paragraph 4 of the same article allows these names to be indicated in English alongside the State language.

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<sup>116</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>117</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

*Figure 4. Bilingual (Ukrainian–Hungarian) place name signs in Transcarpathia in October 2019: pursuant to the new law, these signs will become illegal*



115. In principle, the above law also allows nameplates, official documents, seals and stamps of local self-government bodies, enterprises and institutions to appear in the Crimean Tatar language as well as in the languages of national minorities. Pursuant to the second passage of Article 39 (4) of the law, the use of minority languages in this area is regulated by a separate law. However, no such law on the rights of indigenous peoples and national minorities exist in Ukraine, and up until October 2019, no such bill was registered in Parliament. In practice, this means that it is currently not legal to use regional or minority languages on nameplates, stamps and seals of municipal bodies, enterprises and institutions in Ukraine.
116. However, using multilingual institutional nameplates, seals, stamps and official forms in Transcarpathia is a historical tradition.
117. It is a serious omission by the legislator that it has not adopted a law on the language rights of indigenous peoples and national minorities following the abolition of the 2012 Language Law. The absence of such a law has created legal uncertainty concerning the use of regional or minority languages.
118. The Law on Civil Service,<sup>118</sup> adopted on 10 December 2015, defines the State language as the sole language of communication of public officials and agencies, as well as the documents of such institutions (Article 2).
119. The Law on Civil Service<sup>119</sup> requires civil servants to mandatorily use the State language while performing their official duties (Article 8).
120. The Law on Civil Service<sup>120</sup> obliges civil servants to have “fluent proficiency” in the State language (Article 20).<sup>121</sup> The

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<sup>118</sup> Закон України «Про державну службу». <https://zakon.rada.gov.ua/laws/show/889-19>

<sup>119</sup> Закон України «Про державну службу». <https://zakon.rada.gov.ua/laws/show/889-19>

person concerned must have a certificate of the adequate level of language proficiency issued by the competent authority (Article 25).

121. The Law on Civil Service<sup>122</sup> makes no mention of the use of minority or regional languages in public offices. The law only allows the use of English in the inscriptions of official seals and signboards. By doing so, Kyiv fails to fulfill its obligations under the Charter.

122. Article 29 (1) of the State Language Law<sup>123</sup> prescribes the use of the State language at public events organized by State or municipal bodies. Other languages may be used only if the organizers provide simultaneous interpreting or literal translation into Ukrainian.

123. According to Article 29 (2) of the Law, the use of the Crimean Tatar language and the languages of national minorities in public events is governed by a law which does not exist.

***4. With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:***

***c. compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.***

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<sup>120</sup> Закон України «Про державну службу». <https://zakon.rada.gov.ua/laws/show/889-19>

<sup>121</sup> In Ukrainian language: «вільне володіння державною мовою».

<sup>122</sup> Закон України «Про державну службу». <https://zakon.rada.gov.ua/laws/show/889-19>

<sup>123</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

124. The State Language Law<sup>124</sup> and the Law on Civil Service<sup>125</sup> require that state officials must have knowledge of the state language. This order is natural and necessary. However, there is no mention in these laws of appointing civil servants who know these languages in the areas where regional or minority languages are used.

### **Article 11 – Media**

***1. The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:***

***a. to the extent that radio and television carry out a public service mission:***

***iii. to make adequate provision so that broadcasters offer programmes in the regional or minority languages;***

***b. ii. to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;***

***c. ii. to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;***

***d. to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;***

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<sup>124</sup> Закон України «Про забезпечення функціонування української мови як державної».  
<https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>125</sup> Закон України «Про державну службу».  
<https://zakon.rada.gov.ua/laws/show/889-19>



125. By adopting new laws, Ukraine has fundamentally changed the language regime of electronic media. The new laws significantly reduce the proportion of regional or minority languages on television and radio.
126. On 16 June 2016, a law<sup>126</sup> was passed, which stipulates a minimum quota of 60% for Ukrainian-language broadcasts.
127. This law also stipulates that at least 35% of songs (musical compositions with lyrics) on radio and television shall be in Ukrainian.
128. The law allows some TV and radio broadcasters (under a separate license) to broadcast songs up to 60% of their broadcasting time in an official EU language. This means that regional or minority languages that are not official languages in the EU (such as Russian or Belarusian) can only appear in 40% of radio and television music broadcasts. In turn, regional or minority languages that are official in the EU (e.g. Hungarian, Romanian, Polish, etc.) may be present in up to 60% of music broadcasts in radio and television.
129. In 2017, Ukraine passed a law<sup>127</sup> that changes a number of laws that had previously regulated this issue.
130. The law<sup>128</sup> stipulates a minimum quota of Ukrainian-language broadcasts. Pursuant to the amendments of

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<sup>126</sup> Закон України «Про внесення змін до деяких законів України щодо частки музичних творів державною мовою у програмах телерадіоорганізацій». [Law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding the Share of Musical Works in the State Language in the Programs of Broadcasting Organizations"] <https://zakon.rada.gov.ua/laws/show/1421-19>

<sup>127</sup> Закон України «Про внесення змін до деяких законів України щодо мови аудіовізуальних (електронних) засобів масової інформації». [Law of Ukraine "On Amendments to Some Laws of Ukraine on the Language of Audiovisual (Electronic) Media"] <https://zakon.rada.gov.ua/laws/show/2054-19>

<sup>128</sup> Закон України «Про внесення змін до деяких законів України щодо мови аудіовізуальних (електронних) засобів масової інформації». <https://zakon.rada.gov.ua/laws/show/2054-19>

previous laws, national and regional television and radio broadcasters have to broadcast at least 75% of their weekly programs in Ukrainian, whereas local radio and television broadcasters (present in no more than one region) have to broadcast at least 60% of their weekly programs in the State language.

131. This law does not specifically provide for the use of regional or minority languages (according to the term used in Ukraine: the languages of national minorities) in television and radio broadcasting. This means that these languages can be present up to 25% and 40% of national and local radio- and television broadcasts, respectively.

132. This reduction in broadcasting time for regional or minority languages is inconsistent with the Charter and recent recommendations of the Committee of Ministers.<sup>129</sup>

***e. i. to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages;***

***g. to support the training of journalists and other staff for media using regional or minority languages.***

133. Article 25 of the State Language Law of 2019<sup>130</sup> has brought about significant changes affecting the press.

134. Pursuant to Article 25 (1) of the law, print mass media in Ukraine shall be published in the State language. Publication of print press products in other languages is subject to

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<sup>129</sup> Recommendation [CM/RecChL\(2018\)6](#) of the Committee of Ministers to member States on the application of the European Charter for Regional or Minority Languages by Ukraine. Adopted by the Committee of Ministers on 12 December 2018 at the 1332<sup>nd</sup> meeting of the Ministers' Deputies. [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000-16809026af](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000-16809026af)

<sup>130</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/-laws/show/2704-19>

discriminatory conditions. According to the law, a non-State language newspaper or magazine can only be published if, at the same time, the entire content is also printed in Ukrainian. All language versions must be given the same title, must correspond to each other in their content, size, number of copies, and printing method, and their editions must have the same consecutive numbering and be issued on the same day.

135. According to Article 27 (6) of the law,<sup>131</sup> online mass media (such as news portals) registered in Ukraine are also obligated to have a Ukrainian-language version. The page in the State language shall be loaded by default (the Ukrainian-language page shall be the front page). The Ukrainian version must have at least the same information in terms of content, size and structure as the version in another language.

136. Pursuant to Article 25 (5) and passage 4 of Article 27 (6) of the law,<sup>132</sup> the previous provisions do not apply to the print mass media published in English, Crimean Tatar, and other regional or minority languages which are used as official in the European Union. Even so, the law designed to support the State language is severely affecting the non-Ukrainian-medium press.

***2. The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the***

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<sup>131</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/-show/2704-19>

<sup>132</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/-show/2704-19>

***freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.***

137. Due to the armed conflict in Eastern Ukraine and in the protection of national security interests, television broadcasts from Russia are now prohibited from being aired in Ukraine.

***3. The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.***

138. Kyiv did not consult with minority representatives during the drafting of the laws that changed the language of the press.

139. We consider it as an attack on the freedom of expression that the Security Service of Ukraine has initiated proceedings against the weekly newspaper “Transcarpathia” for allegedly supporting separatism. Such attacks on the freedom of the press and freedom of expression have systematically occurred on behalf of the State in Ukraine.

## ***Article 12 – Cultural activities and facilities***

***1. With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:***

***a. to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;***

***b. to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;***

***c. to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities***

***d. to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;***

***f. to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;***

***g. to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;***

***2. In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.***

***3. The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.***

140. Article 23 (2) of the State Language Law<sup>133</sup> prescribes the use of the State language in cultural life and in cultural events. The use of regional or minority languages is permitted only as provided for by the law on the rights of indigenous peoples and national minorities. However, there exists no such law in Ukraine and (as of October 2019) no draft law has been prepared, either.

141. In accordance with the law,<sup>134</sup> the use of regional or minority languages in cultural events is allowed only if the organizers provide simultaneous interpretation into Ukrainian.

142. Pursuant to Article 23 (3) of the law,<sup>135</sup> in announcements, posters, tickets, etc. of cultural events minority languages can only appear along with the State language. This means that posters, announcements and other information materials in the cultural sphere cannot be produced exclusively in regional or minority languages.

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<sup>133</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>134</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>135</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

143. Pursuant to Article 23 (4) of the law,<sup>136</sup> theatrical performances in a language other than the State language showed at State or communal theaters shall be accompanied by subtitles in the Ukrainian language.
144. The obligation for translation, interpretation, subtitling, dubbing, etc. imposed by Article 23 of the Law might significantly raise the cost of cultural, artistic, recreational and other activities and might, therefore, negatively impact on the actual capacities of national minorities to perform such activities essential for maintaining their distinct identities.
145. According to Article 34 of the Law “information and other announcements during a sporting event”, and “admission tickets to a sporting event and other information products about sporting events” shall be in Ukrainian (save for international sporting events for which, in addition to Ukrainian, other languages can be used). The fact that the use of other languages is not allowed under any circumstances as regards national or local sporting events constitutes a breach of the right to freedom of expression; furthermore, as no exception is provided for minority languages, this provision is not in line with the obligations incumbent on Ukraine under the Charter.
146. Article 34 came into force on 16 July 2019. In November 2019, a fine was imposed on Shakhtar Donetsk football club. The reason for the fine: On November 10, 2019, during the Shakhtar football match against Dynamo Kyiv, announcements of the announcer at the stadium in Kharkov were made in Russian.<sup>137</sup> (Shakhtar, by the way, won the match 1-0.)

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<sup>136</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>137</sup> Шахтар оштрафовано через оголошення на стадіоні російською мовою [Shakhtar were fined for announcing in the stadium in Russian]. <https://www.unian.ua/sport/football/10763744-shahtar->

## ***Article 13 – Economic and social life***

***2. With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:***

***b. in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;***

***c. to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;***

147. County, district and local units of State authorities (such as tax offices, the police, public prosecutors's offices, fire departments, railways, etc.) do not communicate with their clients in regional or minority languages.

148. State providers of public utilities (electricity, gas) do not use regional or minority languages in communication with their customers, either.

149. Public disaster management authorities do not communicate with citizens in regional or minority languages even when this could save lives. Not even in the Berehove district of Transcarpathia (where the proportion of Hungarian native speakers is 80 percent) are there emergency warning signs in the Hungarian language. These signs are only available in the Ukrainian language (less often in Russian) in public places and institutions.

150. Labels and instructions of products in the market are almost exclusively in Ukrainian. It is particularly dangerous that medicines do not contain information in regional and minority languages, either.

## **Article 14 – Transfrontier exchanges**

### **The Parties undertake:**

***a. to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;***

***b. for the benefit of regional or minority languages, to facilitate and/ or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form***

151. Between Ukraine and Hungary, a bilateral agreement was concluded in 1991.<sup>138</sup> Pursuant to Article 17 of that agreement, all necessary conditions must be created for the preservation of the ethnic, cultural, linguistic and religious identity of national minorities. In 1991, the two countries adopted a joint declaration on the principles of cooperation between them in the field of ensuring the rights of national minorities.<sup>139</sup>

152. However, the practical operation of the above mentioned treaties has been significantly complicated by the fact that Ukraine has adopted laws that gradually and

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<sup>138</sup> Договір про основи добросусідства та співробітництва між Україною і Угорською Республікою. [Basic Treaty on Foundations of Neighborhood and Cooperation between Ukraine and the Republic of Hungary] [https://zakon5.rada.gov.ua/laws/show/348\\_004](https://zakon5.rada.gov.ua/laws/show/348_004)

<sup>139</sup> Декларація про принципи співробітництва між Українською РСР та Угорською Республікою по забезпеченню прав національних меншостей. [Declaration on Principles of Cooperation between the Ukrainian SSR and the Republic of Hungary for the Protection of the Rights of National Minorities] [https://zakon.rada.gov.ua/laws/show/348\\_322](https://zakon.rada.gov.ua/laws/show/348_322)

continuously restrict the right and possibility to use the Hungarian language.

153. With the support of Hungary and the mediation of the Transcarpathian Hungarian organizations, several kindergartens, schools and medical offices have been renovated in Transcarpathia. These are mostly State-owned and communal institutions. Furthermore, substantial economic support has been given to Transcarpathia by the government of Hungary. These Hungarian subsidies have also generated significant tax revenues for the budget of Ukraine. Still, Kyiv sees a threat in subsidies arriving to Transcarpathia,<sup>140</sup> and accuses the fund management organizations with separatism.
154. In the field of keeping relations with fellow nationalities living in the motherland and in EU countries in general, the narrow intersection of border crossing, in general, the backwardness of border infrastructure, in particular the improper state of roads, is the most serious problem. From the Ukrainian side in last 10 years new border posts have not been opened and existing ones have not been developed over the last few years.
155. There is no construction or thorough improvement of any car traffic routes, either in recent years nor at present. With the launch of a visa-free entry for Ukrainian citizens to the EU, the border crossing problem become disastrous. Border crossers can not cope with current traffic either.

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<sup>140</sup> The support of the Transcarpathian institutions by Hungary bothers the Ukrainian Ministry of Foreign Affairs. <http://www.karpatalja.ma/news/the-support-of-the-transcarpathian-institutions-by-hungary-bothers-the-ukrainian-ministry-of-foreign-affairs/>

## PART IV: Summary

156. The periodic report submitted by the Ukrainian government in 2019 selectively presents the laws of Ukraine on the use of minority languages. For example, the report mentions the Declaration on the Rights of Nationalities of Ukraine,<sup>141</sup> but does not cite Article 3 thereof: “The State of Ukraine guarantees the right of all peoples and ethnic groups to the free use of their mother tongue in all areas of social life, including education, economic life, obtaining and disseminating information. [...] In the administrative units where a given nationality lives in a compact bloc, its language can function at the same level as the State language.” Nor do the authors of the State report refer to Article 22 of the Constitution of Ukraine,<sup>142</sup> according to which it is prohibited to curtail existing rights of citizens when enacting new laws.
157. According to the previous reports of the Committee of Experts, Kyiv did not fully fulfill its obligations under the instrument of ratification. However, the authors of the periodic report do not react to the critiques and suggestions made in the previous reports and recommendations of the Committee of Experts and the Committee of Ministers. This means that the Ukrainian government disregards the recommendations of the Council of Europe.
158. On page 4 of the fourth State report submitted by Kyiv,<sup>143</sup> the Ukrainian government complains that the report had to be prepared prepared “*under unprecedented conditions*”, without having received the recommendations

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<sup>141</sup> Декларація прав національностей України. <https://zakon.rada.gov.ua/laws/show/1771-12>

<sup>142</sup> Конституція України. <https://zakon.rada.gov.ua/-laws/show/254%D0%BA/96-%D0%B2%D1%80>

<sup>143</sup> Fourth periodic report by Ukraine on the implementation of the European Charter for Regional or Minority Languages, in accordance with Article 15 of the Charter. Kyiv, December 2018. <https://rm.coe.int/ukrainepr4-en/1680972f17>

of the Council of Ministers of the CoE based on the previous reporting period. However, the recommendations of the Council of Ministers were adopted on 12 December 2018,<sup>144</sup> whereas the report of Ukraine was published as late as 4 September 2019 on the website of the Charter.<sup>145</sup> Therefore, the Kyiv government would have had enough time to familiarize itself with the recommendations of the Council of Ministers and the critical remarks contained therein.

159. The reports of the Committee of Experts and the recommendations of the Council of Ministers (including the most recent ones adopted on 12 December 2018) had been prepared before the reversion of direction in Ukraine's language policy, effected by the political forces that came to power in Kyiv in 2014. Considering this, one can claim that after the changes in language policy since 2014, Kyiv will be even less able to meet its commitments.
160. Since 2014, Ukraine's language policy has undergone fundamental changes, in terms of both legislation and practical implementation. The direction of change is unfavorable for speakers of regional or minority languages, as Kyiv has significantly reduced the rights to use regional or minority languages.
161. The Language Law adopted in 2012<sup>146</sup> (which defined the rights to use regional or minority languages based on the

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<sup>144</sup> Recommendation CM/RecChL(2018)6 of the Committee of Ministers to member States on the application of the European Charter for Regional or Minority Languages by Ukraine (Adopted by the Committee of Ministers on 12 December 2018 at the 1332<sup>nd</sup> meeting of the Ministers' Deputies). [https://search.coe.int/cm/pages/-result\\_details.aspx?objectId=09000016809026af](https://search.coe.int/cm/pages/-result_details.aspx?objectId=09000016809026af)

<sup>145</sup> [https://www.coe.int/en/web/european-charter-regional-or-minority-languages/reports-and-recommendations?fbclid=IwAR3lg8e-8EiNYyEwbZDVAIK7o2isF4C\\_OIZkZthdVH6467Gc5NHPs8ryuxvE#\(%2228993157%22:\[23\]\)](https://www.coe.int/en/web/european-charter-regional-or-minority-languages/reports-and-recommendations?fbclid=IwAR3lg8e-8EiNYyEwbZDVAIK7o2isF4C_OIZkZthdVH6467Gc5NHPs8ryuxvE#(%2228993157%22:[23]))

<sup>146</sup> Закон України «Про засади державної мовної політики». [Law of Ukraine "On the Principles of State Language Policy"] <https://zakon.rada.gov.ua/laws/show/5029-17>

Charter) was repealed by the Constitutional Court of Ukraine in 2018 on formal grounds.<sup>147</sup> Previously (in a decision issued in 2000),<sup>148</sup> the Constitutional Court overruled, also for formal reasons, the law<sup>149</sup> by which Ukraine ratified the Charter in 1999. The independent press has on several occasions proved<sup>150</sup> that the Supreme Council of Ukraine has adopted decisions and legal acts in violation of the relevant laws. However, to the best of our knowledge, except for the above two laws, the Constitutional Court of Ukraine has not annulled any other law on formal grounds. The two laws that ended up so were directly related to the Charter.

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<sup>147</sup> Рішення Конституційного Суду України у справі за конституційним поданням 57 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про засади державної мовної політики». [Decision of the Constitutional Court of Ukraine in the case of the constitutional submission of the 57 Deputies of Ukraine on the conformity of the Constitution of Ukraine (constitutionality) with the Law of Ukraine "On the Principles of State Language Policy"] <https://zakon.rada.gov.ua/-laws/show/v002p710-18>

<sup>148</sup> Рішення Конституційного Суду України у справі за конституційним поданням 54 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України „Про ратифікацію Європейської хартії регіональних мов або мов меншин 1992 р.” від 12.07.2000 р. № 9-рп/2000. [Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of 54 Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages of 1992" of 12.07.2000 No. 9-rp / 2000] <https://zakon.rada.gov.ua/-laws/show/v009p710-00>

<sup>149</sup> Закон України «Про ратифікацію Європейської хартії регіональних мов або мов меншин, 1992 р.» [Law of Ukraine "On Ratification of the European Charter for Regional or Minority Languages, 1992"] <https://zakon.rada.gov.ua/laws/show/1350-14>

<sup>150</sup> For example: Рада, аналогів котрої нет [Parliament, which has no analogues]. <https://www.youtube.com/watch?v=U9r6kdaWXLy>

162. On 6 October 2017, 48 Members of Parliament submitted a petition<sup>151</sup> to the Constitutional Court of Ukraine requesting it to declare that the Law on Education<sup>152</sup> is unconstitutional. In the document submitted, MPs called the attention of the Constitutional Court on the fact that the Supreme Council of Ukraine violated the Rules of Procedure when passing the Law on Education. In turn, the Constitutional Court of Ukraine, in its ruling of 16 July 2019, did not consider Article 7 of the Law on Education unconstitutional.<sup>153</sup> In fact, the Constitutional Court did not find the infringements that occurred during the adoption of the Law on Education incompatible with the Constitution.

163. On 21 June 2019, 51 Ukrainian parliamentarians filed a petition<sup>154</sup> with the Constitutional Court of Ukraine,

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<sup>151</sup> Конституційне Подання щодо відповідності Конституції України (неконституційності) Закону України «Про освіту» від 05 вересня 2017 року № 2145-VIII [Constitutional petition on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Education" of 5 September 2017, No. 2145-VIII]. [http://www.ccu.gov.ua/sites/default/files/3\\_4072.pdf](http://www.ccu.gov.ua/sites/default/files/3_4072.pdf)

<sup>152</sup> Закон України «Про освіту». <https://zakon.rada.gov.ua/-laws/show/2145-19>

<sup>153</sup> Рішення Конституційного Суду України у справі за конституційним поданням 48 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про освіту» № 10-р/2019 [Decision of the Constitutional Court of Ukraine No. 10-r/2019 in the case of the constitutional submission of 48 Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Education"]. [http://ccu.gov.ua/sites/default/files/docs/10\\_p-2019\\_0.pdf](http://ccu.gov.ua/sites/default/files/docs/10_p-2019_0.pdf)

<sup>154</sup> Конституційне Подання щодо відповідності Конституції України (конституційності) Закону України «Про забезпечення функціонування української мови як державної» від 25 квітня 2019 року № 2704-VIII [Constitutional Submission of Conformity of the Constitution of Ukraine (Constitutionality) to the Law of Ukraine "On Ensuring the Functioning of the Ukrainian Language as State" of April 25, 2019 No. 2704-VIII]. [http://www.ccu.gov.ua/sites/default/files/3\\_4094\\_r.pdf](http://www.ccu.gov.ua/sites/default/files/3_4094_r.pdf)



requesting a declaration of unconstitutionality of the 2019 Law “On Supporting the Functioning of the Ukrainian Language as the State Language”.<sup>155</sup> One of the reasons given by MPs in their submission is that, when passing the State Language Law, the Parliament has repeatedly violated the rules on the adoption of laws. Up until the date of preparing this alternative report (31 October 2019), the Constitutional Court of Ukraine has not ruled on the petition of MPs. Representatives of the Transcarpathian Hungarian community are monitoring the fate of the constitutional petition and hope that the Constitutional Court will repeal the Law on the Functioning of the State Language (as it did in 2000 and 2018, regarding two former laws).

164. We believe that the law adopted on 25 April 2019 “On Supporting the Functioning of the Ukrainian Language as the State Language”<sup>156</sup> should be subject to specific and thorough examination and analysis by the Committee of Experts of the CoE, since the provisions of the Law have virtually eliminated the possibility of using regional or minority languages (a term that is not applied in the Law) in social and public life. As a result, this law made it impossible to apply the Charter in Ukraine. Despite the calls to do so, the Kyiv government did not send the draft of the State Language Law to the Venice Commission for review before its enactment. However, by letter of 22 May 2019, the Chairperson of the Committee of the Parliamentary Assembly of the Council of Europe on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) requested an opinion of the Venice Commission on the Ukrainian Law on Supporting the Functioning of the Ukrainian Language as the

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<sup>155</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/-show/2704-19>

<sup>156</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/-show/2704-19>

State Language, and the Law has received considerable and substantial criticism from the Venice Commission.<sup>157</sup>

165. Ukraine's Law "On Supporting the Functioning of the Ukrainian Language as the State Language"<sup>158</sup> intends to promote the use of the Ukrainian language in all public spheres of social life through coercive measures. The Law, in addition to the preamble and the final provisions, consists of 57 articles. Of these, 15 articles (44 to 57) concern State institutions and agencies charged with enforcing the use of the Ukrainian language in all spheres of social life.
166. The State Language Law of 2019<sup>159</sup> accurately regulates how the State protects citizens' rights to use the State language. However, the linguistic rights of citizens using other languages are entirely neglected. Speakers of minority languages are mentioned only in exceptional cases. In such cases, however, the State Language Law refers to an act which has not even been drafted by the Ukrainian government.
167. The State Language Law (see, for example, Articles 49 and 54) creates the possibility for citizens to file a complaint when they feel that authorities, organizations, institutions, etc. do not use the State language in the public sphere to an adequate extent. This creates a threatening atmosphere for the speakers of regional or minority languages, and therefore hinders the public use of those languages.

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<sup>157</sup> CDL-AD(2019)032. EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). UKRAINE. OPINION ON THE LAW ON SUPPORTING THE FUNCTIONING OF THE UKRAINIAN LANGUAGE AS THE STATE LANGUAGE. Opinion No. 960/2019. Strasbourg, 9 December 2019. [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)

<sup>158</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

<sup>159</sup> Закон України «Про забезпечення функціонування української мови як державної». <https://zakon.rada.gov.ua/laws/show/2704-19>

168. Since the ratification of the Charter, Kyiv has made every effort to destroy the prestige of the Charter among its population, suggesting to Ukrainian society that the international instrument should not be applied in Ukraine.
169. The ratification of the Charter seems to have been only a means to the end of European integration to Kyiv: the incorporation of the international treaty into the domestic legal system was not a value-oriented decision, but a choice made solely on the basis of a momentary political interest.
170. In recent years, Ukraine has been gradually reducing the rights to use regional or minority languages.
171. This practice (in relation to Article 7 of the 2017 Law on Education) has been criticized by the Council of Europe<sup>160</sup> as well as the Venice Commission of the CoE<sup>161</sup>. Furthermore, the issue of the Education Law has been implicitly included in the Association Agreement between the EU and Ukraine,<sup>162</sup> and it is mentioned in some statements on NATO-Ukraine relations. For example, paragraph 66 of the Declaration adopted by the Heads of State and Government attending the NATO meeting in Brussels on 11 and 12 July

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<sup>160</sup> The new Ukrainian law on education: a major impediment to the teaching of national minorities' mother tongues. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24218&lang=en>

<sup>161</sup> Opinion on the provisions of the Law on Education of 5 September 2017 which concern the use of the State language and minority and other languages in education. Adopted by the Venice Commission at its 113th Plenary Session (8-9 December 2017). Strasbourg (Fr), 11 December 2017. 25 p. Opinion no. 902/2017 CDL-AD (2017) 030. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e)

<sup>162</sup> Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22014A0529(01)&from=EN)

2018<sup>163</sup> calls on Ukraine to respect its international obligations in the field of minority rights. Despite all efforts, Kyiv has not amended Article 7 of the Education Law.

172. One can see from the example of Ukraine's Education Law how a provision restricting the rights of speakers of regional or minority languages becomes the source of fierce diplomatic disputes between two neighboring and friendly States (Ukraine and Hungary). The outcome of the controversy following the adoption of the 2017 law could play a decisive role in interpreting the right of autochthonous minorities in Europe to education in their mother tongue and, in general, the rights to use minority languages. Should European international organizations assist in eroding the Ukrainian education network in regional or minority languages, a precedent will be set, according to which the rights of minorities previously acquired in the legal system of the State they are citizens thereof can be curtailed at any time. States that are building homogeneous nation-states may be encouraged by the Ukrainian example, may take similar steps, thus inevitably leading to new conflicts in Europe.

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<sup>163</sup> Brussels Summit Declaration Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Brussels 11-12 July 2018. [https://www.nato.int/cps/en/natohq/-official\\_texts/156624.htm?selectedLocale=en](https://www.nato.int/cps/en/natohq/-official_texts/156624.htm?selectedLocale=en)



Брензович В., Зубанич Л., Орос І., Товт М., Дорчі К., Черничко С.

**ПОСТУПОВЕ ЗВУЖЕННЯ МОВНИХ ПРАВ В УКРАЇНІ.**

*Альтернативний звіт організації із захисту інтересів закарпатських угорців та експертів у зв'язку з поданням України до Комітету експертів Ради Європи Четвертої періодичної доповіді про виконання Україною Європейської хартії регіональних мов або мов меншин. – Берегово-Ужгород, 2020. – 92 с. (англійською мовою)*

Науково-інформаційне видання  
**THE CONTINUOUS RESTRICTION  
OF LANGUAGE RIGHTS IN UKRAINE**

Joint alternative report by Hungarian NGOs and researchers  
in Transcarpathia (Ukraine) on the Fourth Periodical Report of  
Ukraine on the implementation of the European Charter for  
Regional or Minority Languages, submitted to the Council of  
Europe's Committee of Experts