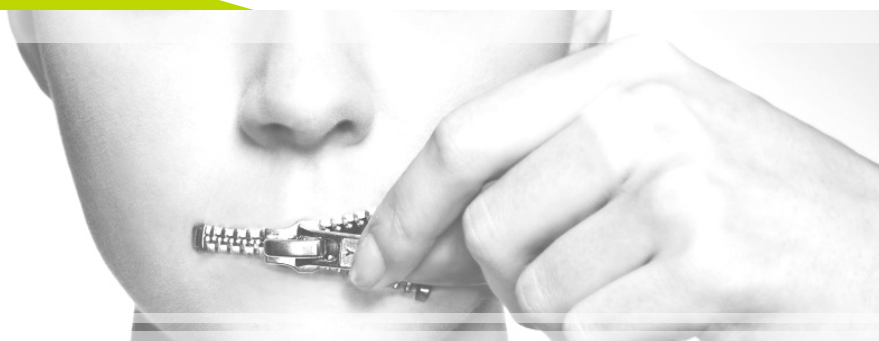


FOUR LANGUAGE LAWS OF UKRAINE:

CONTINUOUS LIMITATION
OF LANGUAGE RIGHTS
(1989 - 2019)



*The viewpoint of the
Hungarian national
minority in Ukraine*

Prepared at Antal Hodinka Linguistics Research Center

Language Laws in Ukraine (1989–2019)

- We will compare Ukraine's four language laws:
- Law On Languages in the Ukrainian Soviet Socialist Republic (1989–2012).
- Law On Ratification of European Charter for Regional or Minority Languages (2003).
- Law On the principles of the state language policy (2012–2018).
- Law On ensuring the functioning of Ukrainian as the State language (draft – 2018/2019).
- By comparing the above laws we will get an opportunity to identify the main directions of Ukrainian language policy in the period between 1989 and 2019.

Law of Ukraine “On Languages in the Ukrainian Soviet Socialist Republic” (LL_1989)

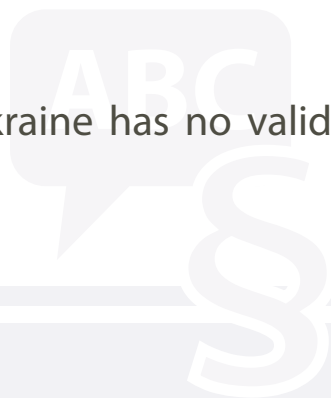
- The language law of 1989 (LL_1989), passed before independence, constituted a compromise between Ukrainization and the preservation of the status quo.
- The LL_1989 equally assisted Ukrainian nation building and the continuing presence of the Russian language in many domains of life.
- Some experts' (for example, L. Bilaniuk's) interpretation is that the Law on Languages took the “first legal steps towards de-Sovietization and independence of the country in 1991”.

The Law of Ukraine “On Ratification of European Charter for Regional or Minority Languages” (ECRML-UA)

- Ukraine ratified the European Charter for Regional or Minority Languages (ECMRL-UA) for the first time in 1999.
- However, the law on ratification was repealed by the Constitutional Court of Ukraine (CCU) on July 12, 2000.
- Following that, several draft versions of the ratification law were developed.
- However, the next ratification of the Charter took place only on May 15, 2003.
- The ratification document was deposited with the president of the European Council, and the Charter came into force in Ukraine as of January 1, 2006.

The Law of Ukraine “On the principles of the state language policy” (LL_2012)

- The law on the principles of the state language policy (LL_2012) was passed after several attempts, with several political deals in the background, and amidst scandalous circumstances on July 3, 2012, and it also took a long way until being signed by then speaker of parliament Volodymyr Lytvyn and president Yanukovich.
- Finally, it was published on August 10, 2012, in the official publication *Голос України* [Voice of Ukraine], thus coming into effect.
- However, on February 28, 2018, the Constitutional Court of Ukraine declared the LL_2012 unconstitutional.
- As a result of this decision, Ukraine has no valid language law.



The Draft Law of Ukraine “On ensuring the functioning of Ukrainian as the State language” (Draft_2018/2019)

- On 4 October 2018, the Parliament of Ukraine adopted in the first reading the draft law No. 5670-d ‘On ensuring the functioning of Ukrainian as the State language’ – a revised text prepared by the Parliamentary Committee on culture and spirituality – which aims to regulate the use of the State language in all spheres of public life (with the exception of religious worship activities).
- The text adopted at first reading received more than 2 000 amendments.
- The parliament started to discuss the draft in second reading on 28 February 2019. The debate on the draft (after a short break) will continue on April 9, 2019.
- Thus, today (on March 26, 2019), this law is not (yet) in force.

Comparison of the language laws

- In this subsection we will compare the four documents on the following points:

which languages they concern;

- how they define the status of the Ukrainian language;
- what status they give to minority languages;
- under what conditions they allow the use of minority languages in regional and local offices of government and local administration;
- on what levels of government administration they will allow the official use of minority languages;
- how they regulate education in the minority languages.

Languages covered by the four laws (1)

- LL_1989 and ECRML-UA regulate the use of Ukraine's minority languages, while LL_2012 defines the rights of the speakers of languages regulated by the law. The difference between the two approaches is crucial, since there are considerable differences between groups of the population by ethnicity, and in censuses a greater proportion of the population profess themselves to be of Ukrainian ethnicity rather than of Ukrainian mother tongue.
- LL_1989 protects the language of all national minorities in Ukraine, which is close to 130 languages. ECMRL-UA deals with the languages of 13 national minorities. LL_2012 codifies the rights of speakers of 18 regional or minority languages in Ukraine. Draft_2018/2019 in principle only provides for the use of the state language. However, indirectly, the law affects all languages used in Ukraine.

Languages covered by the four laws (2)

LL_1989	ECRML_UA	LL_2012	Draft_2018/2019
All languages of national minorities in Ukraine, i.e. approximately 130 languages.	13 languages of national minorities: Russians, Belarusians, Moldavians, Crimean Tatars, Bulgarians, Hungarians, Romanians, Poles, Jews, Greeks, Germans, Gagauz, Slovaks.	Mother tongue speakers of 18 regional or minority languages: Russian, Belarusian, Bulgarian, Armenian, Gagauz, Yiddish, Crimean Tatar, Moldavian, German, Greek, Polish, Romani, Romanian, Slovak, Hungarian, Rusyn, Karaim and Krymchak.	Only Ukrainian as the State Language of Ukraine. However, indirectly, the law affects all languages used in Ukraine.

Ukrainian as the only state language and official language of Ukraine (1)

- According to the Constitutional Court of Ukraine's official interpretation, number 10-пн/99 and dated December 14, 1999, of Article 10 of the constitution of Ukraine, the only state language of Ukraine is Ukrainian, and the state language is also the official language of Ukraine.
- In this Resolution of the Constitutional Court it is stated that the use of the state language is mandatory in all the public spheres of social life, i.e. by legislative and executive powers, in judiciary, as well as in the office work of other state bodies, regional and local self-governments.
- However, the above-mentioned Resolution of the Constitutional Court also specifies that in the office work of local self-governments, in addition to the state language, minority languages can be used as prescribed by law.
- Later, in 2008, the Constitutional Court stated that "The status of Ukrainian as the State language has a level similar to elements of the state constitutional order, including the territory of the state, its capital and state symbols."

Ukrainian as the only state language and official language of Ukraine (2)

- LL_1989, LL_2012 and Draft_2018/2019 similarly specifies Ukrainian as the only state language (while ECRML-UA does not name one at all).
- LL_1989 assigns the Russian language the status of “the language which is used for communication between the peoples of the Soviet Union”. The special status of Russian is also emphasized by the 1996 constitution.
- The other three documents do not assign a special status to Russian.



Ukrainian as the only state language and official language of Ukraine (3)

- According to Paragraph 2, Point 1 of Constitutional Court's interpretation, the fact that Ukraine has only one state language does not mean that only the Ukrainian language can be used as a public means of communication in official language functions: "In addition to the state language, the Russian language and other minority languages can also be used in the work of the local administrative organs of the executive branch, the organs of the Crimean Autonomous Republic and the local self-governments the Russian language and other minority languages can also be used as regulated by the effective laws of Ukraine."
- Widening the range of the use of regional or minority languages shall not in any way diminish the range of the use of the state language. As a state and official language of Ukraine, the Ukrainian language is used all over Ukraine in the work of organs of the legislative, executive, and jurisdictional branches of administration, in international treaties, and in all educational institutions of all levels. The Constitution of Ukraine allows for the presence of minority languages in the public sphere also under certain circumstances.

Demographic threshold for the use of minority languages (1)

- LL_1989 allows for the use of the languages of national minorities in state offices in case the given national minority amounts to an absolute majority (i.e. higher than 50 per cent) within an administrative unit – which is a difficult demographic benchmark to reach for a minority.
- The use of the minority language is optional rather than obligatory even in this case. No implementation guidelines were ever made to this law, so this regulation is difficult to apply.
- According to LL_2012, regional or minority languages can be used in government administration offices and local government offices if their members constitute at least 10% of the population of the administrative unit. In these cases the law makes it obligatory to use the minority language in oral and written dealings between office workers and citizens. Local governments are required to publish their resolutions in the minority language as well as in Ukrainian.
- ECRML/UA does not define a demographic benchmark. Instead, it allows the use of regional or minority languages in the work of local or regional authorities where it is justified by the number of regional or minority language speakers.
- Draft_2018/2019 makes the use of the state language mandatory in all public situations. The draft promises that a separate law will regulate the use of minority languages. However, the draft of this law has not yet been prepared.

Demographic threshold for the use of minority languages (2)

LL_1989	ECRML_UA	LL_2012	Draft_2018/2019
If the ratio of the national minority exceeds 50%.	Does not define a demographic benchmark.	If the native speakers of a regional or minority language meets a 10% threshold.	Makes the use of the state language mandatory in all public situations.

What are the levels of government administration official use of minority languages will be allowed at (1)

- ECRML-UA also does not specify the local or regional authorities that may use the regional or minority languages.
- LL_1989 and LL_2012 precisely determine the levels of administrative units (county 'область', district 'район', city, town, and village) where minority languages can be used.
- No matter that the proportion of Russian native speakers in Ukraine is 29.59%, according to LL_2012, on the national level the only state and official language is Ukrainian.
- Draft_2018/2019 makes the use of the state language mandatory in all public situations.
- The draft promises that a separate law will regulate the use of minority languages. However, the draft of this law has not yet been prepared.

What are the levels of government administration official use of minority languages will be allowed at (2)

LL_1989	ECRML_UA	LL_2012	Draft_2018/2019
County (oblast'), district (raion), city/town, and village.	Does not define.	County (oblast'), district (raion), city/town, and village.	Makes the use of the state language mandatory at all administrative levels.

At what levels of education is it possible to teach in the mother tongue?

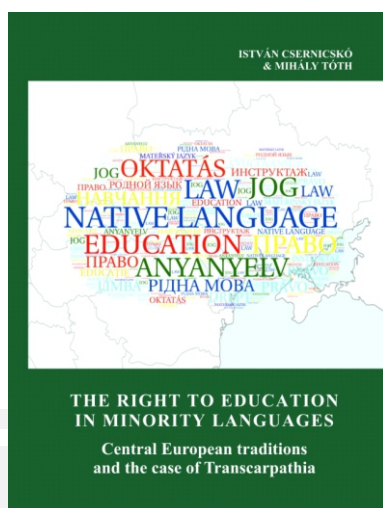
LL_1989	ECRML_UA	LL_2012	Draft_2018/2019
From kindergarten to university at all levels. The choice of the language of education is the right of citizens.	From kindergarten to university at all levels.	From kindergarten to university at all levels. The choice of the language of education is the right of citizens.	Education in minority language is possible in kindergarten and primary education. The education on 5-12 grades are bilingual (limited use of mother tongue). In vocational and higher education, the mother tongue can only be a subject. Citizens' right to choose the language of education ceases.

Draft Law of Ukraine “On General Secondary Education” (2019): The use of minority languages is limited

Share of mother tongue in the educational process (in %)	Grades 1-4	5th grade	9th grade	Grades 10-12	Who are these?
representatives of majority	100	100	100	100	Ukrainians
indigenous people	100	100	100	100	Crimean Tatars
minorities, whose language is official in the EU	100	80	60	40	Hungarians, Romanians
minorities, whose language is NOT official in the EU	100	20	20	20	Russians

“If an educational system is organized so that all teaching (except possibly Indigenous/Tribal or minority/minoritized children’s mother tongues as subjects) happens through the medium of the dominant language and the teachers are monolingual in it, we have a submersion learning situation, and the school’s structure reflects linguisticism.”

Skutnabb-Kangas, Tove 2019. Afterword. In:
István Csernicskó & Mihály Tóth eds.,
*The Right to Education in Minority Languages:
Central European traditions
and the case of Transcarpathia.*
Uzhhorod: Autdor-Shark, 2019. p. 69.

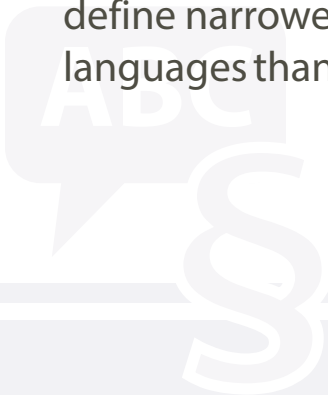


Conclusion (1)

- Four language laws of the country from four different periods have been compared.

It has been concluded that LL_1989 and LL_2012 brought about positive changes in codifying minority language rights. Both laws codified only one state language, Ukrainian, and required the obligatory use of Ukrainian in all formal domains. A part of the Ukrainian political and intellectual elite, however, considered the support for Ukrainian to be too weak, and that of the minority languages (especially of Russian) to be too strong.

- Because of this, ECRML/UA and Draft_2018/2019 define narrower rights for the speakers of minority languages than the previous laws.



Conclusion (2)

- LL_1989 created relatively favorable conditions for the use of minority languages already before independence.
- ECMRL-UA brought about a considerable backward step in the field of language rights.
- LL_2012, again, significantly increased the rights of the use of minority languages.
- However, Draft_2018/2019 greatly narrows the language rights of the minorities not only compared to LL_2012, but even compared to LL_1989.



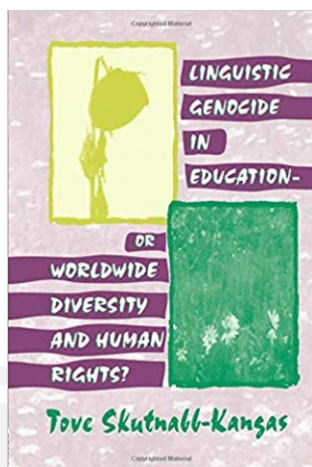
The BRIEFING NOTE of The United Nations Human Rights Office Of The High Commissioner's on the Draft_2018/2019:

- The draft law aims to regulate the use of the State language **in all spheres of public life, with the exception of religious rites.**
- The State language is mostly promoted through **legislative restrictions**, such as language requirements for employment or the prescriptive mandatory use of the State language in various areas; and through **punitive measures**, such as the establishment of specialized governmental bodies responsible for monitoring the implementation of the language legislation and sanctioning those, who breach it.
- There are serious **concerns as to the compatibility** of certain regulations **with international human rights standards**, particularly in respect to language proficiency requirements for accessing public office, as well as the linguistic requirements in the electoral process, in the media and in commercial spheres.
- The draft law **does not seek to offer** neither a comprehensive nor **a balanced framework** to ensure that Ukraine meets its obligations to protect minority languages.
- In the absence of special legislation regulating the use of minority languages in Ukraine, the provisions outlined by the draft law **do not ensure sufficient clarity or provide solid legal guarantees for the protection and the use of minority languages** in important areas such as access to public services.

“Lack of linguistic rights is one of the causal factors in certain conflicts, and linguistic affiliation is a rightful mobilizing factor in conflicts with multiple causes where power and resources are unevenly distributed along linguistic and ethnic lines.

Thus not granting linguistic and cultural human rights is today a way of supporting what has been called ethnic conflict.”

Skutnabb-Kangas, Tove:
*Linguistic genocide in education,
 or worldwide diversity and humanrights?*
 Mahwah, New Jersey: Erlbaum, 2000. p 430.





Human and citizens' rights and freedoms affirmed by this Constitution are not exhaustive.

Constitutional rights and freedoms are guaranteed and shall not be abolished.

The content and scope of existing rights and freedoms shall not be diminished in the adoption of new laws or in the amendment of laws that are in force.

Article 22 of The Constitution of Ukraine



ABC





Berehove
2019