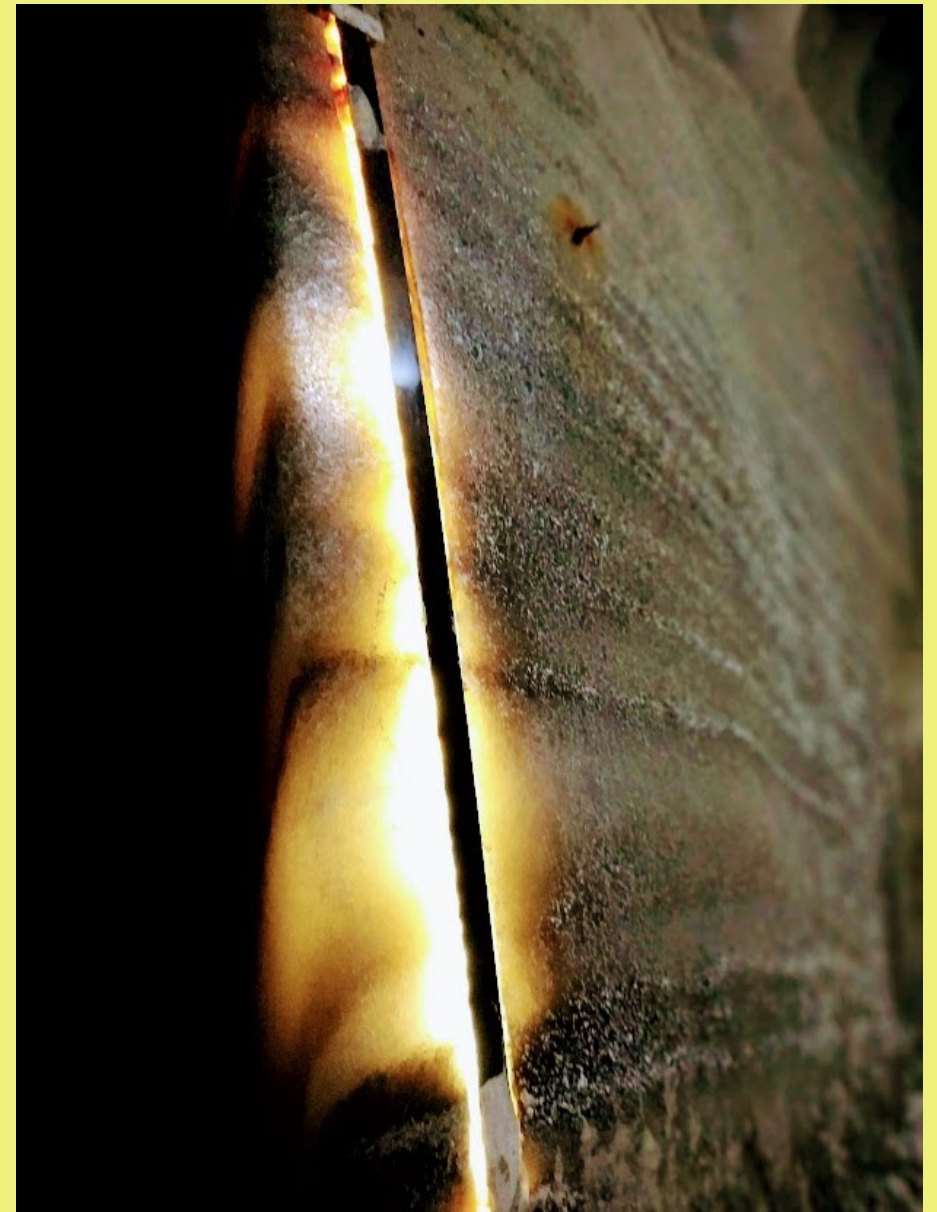


**Written Comments by Hungarian Researchers and
NGOs in Transcarpathia (Ukraine) on the Fifth
Periodic Report of Ukraine on the implementation of
the Framework Convention for the Protection of
National Minorities**



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**Berehovo – Beregszász,
January, 2023**

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Introduction

Peculiarities of the geopolitical and geographical situation of Ukraine, its territory inherited from the Soviet Union, different political, historical, economic, cultural and social development pattern of its regions¹, heterogeneous ethnic, linguistic and religious composition of its population², as well as the fact that representatives of the eponymous nation of each neighboring state are present among its citizens, make the issue of nationality a domestic and foreign policy, as well as a security policy problem.

This alternative report was prepared and submitted by Hungarian organizations and researchers operating in Ukraine (Transcarpathia), in connection with the Ukrainian government's fifth periodic report on the implementation of the Framework Convention on the Protection of National Minorities in Ukraine. The report was prepared with the cooperation of the employees (experts) of the Transcarpathian Hungarian Cultural Association (KMKSZ), the Transcarpathian Hungarian Teachers' Association (KMPSZ), the Hungarian Democratic Association of Ukraine (UMDSZ), the Antal Hodinka Linguistic Research Center and the Tivadar Lehoczky Social Science Research Center. Our alternative report focuses on the issues of the implementation and application of the Framework Convention in Transcarpathia, and its purpose is to complement and clarify the fifth periodical report of the Kyiv government from the perspective of the Hungarian national minority.

¹ Karácsonyi, Dávid – Kocsis, Károly – Kovály, Katalin – Molnár, József – Póti, László: East–West dichotomy and political conflict in Ukraine – Was Huntington right? *Hungarian Geographical Bulletin* 2 (2014): 99–134.

² Kocsis, Károly – Rudenko, Leonid – Schweitzer, Ferenc eds.: *Ukraine in maps*. Kyiv–Budapest: Institute of Geography National Academy of Sciences of Ukraine, Geographical Research Institute Hungarian Academy of Sciences, 2008.

The authors appreciate the opportunity to voice their opinion on the Ukrainian government's report and are happy to provide explanations and answers to any questions the Council of Europe Advisory Board may have. During the visit of the Advisory Board's delegation to Ukraine, if necessary and possible, we are also happy to meet in person in order to provide further feedback on the implementation of the Framework Convention in Transcarpathia.

Our comments in this shadow report are about the application of the Framework Convention, with particular attention to the Conclusions of the Advisory Board regarding the fourth report of Ukraine³ (observations, suggestions) and do not respond directly to the issues raised in the report of the Ukrainian government. In our work, we focus on the application of the Framework Convention in relation to the Hungarian national minority, and only partially cover the situation of other national minorities. However, the vast majority of our observations generally characterize the situation and problems related to the application of the Framework Convention in Ukraine and Transcarpathia.

In our alternative report, we talk about the legislative changes in the period analysed. The structure of our document follows the articles of the Framework Convention and is structured according to the structure of the Conclusion of the Advisory Board regarding the fourth report of Ukraine.

This is not our first shadow report: we have already prepared similar documents for the fourth report of the Ukrainian

³ Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Ukraine – adopted on 10 March 2017, Published on 5 March 2018, ACFC/OP/IV(2017)002 <https://www.coe.int/en/web/minorities/ukraine>

government.⁴ In 2016⁵ and in 2019⁶ we have also submitted an alternative report similar to the current one to the competent body of the Council of Europe on the application of the European Charter of Regional or Minority Languages in Ukraine and Transcarpathia.

These alternative reports indicate the commitment of the Transcarpathian Hungarian national minority to general human rights, as well as our need and determination to preserve our identity and our mother tongue, as well as the rights we have acquired so far.

We thank the Council of Europe for examining and taking into account our arguments and comments in our previous alternative reports, and we are also grateful for referring to the problems we raised during consultations with Ukrainian government bodies.

Our goal is not to worsen linguistic and ethnic conflicts, but to contribute to the consolidation and the creation of social peace. We are convinced that the preservation of ethnic, cultural and linguistic diversity and the creation of mutual respect will bring the peace closer in Ukraine. Compliance with the laws guaranteeing the

⁴ 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

⁵ 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>

⁶ 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. https://hodinkaintezet.uz.ua/wp-content/uploads/2020/01/Written-Comments-Charter_2019.pdf

rights of national minorities is the common interest of the state, majority society and minority communities. The application of laws is an important step towards the rule of law and functional democracy. Our primary goal is to facilitate this by preparing the alternative report.

Chapter I

Legal changes

In the period (2017–2022) covering Ukraine's 5th report on the implementation of the Framework Convention on the Protection of National Minorities of the Council of Europe, we have witnessed cardinal changes in the state's nationality policy, both in the areas of legislation and legal interpretation, as well as law enforcement. The most important stations are:

In May 2017, the Supreme Council of Ukraine has adopted a law on the amendment of some laws of Ukraine related to the language of audiovisual (electronic) mass media⁷ (2017 Law on Media). In this legislation, the legislator replaces the concept of "minority or regional language" used in Ukrainian legislation until then, with the concepts of "language of the national minority" and "language of the indigenous people". In the future, these two concepts also remain two separate concepts and categories, which will have different legal status. For the first time in Ukraine, this Law defines the minimum broadcast time in the state language. All those television and radio organizations that broadcast their programs using radio frequencies with national and regional coverage must compile at least 75% of the weekly program in

⁷ Закон України «Про внесення змін до деяких законів України щодо мови аудіовізуальних (електронних) засобів масової інформації» № 2054-VIII від 23.05.2017 р.

Ukrainian. In the case of local (not more than one county) broadcasting, it must be at least 60% (Article 10). These regulations apply equally to all broadcasters, regardless of their form of ownership or other legal status.

In September 2017, the Supreme Council of Ukraine has adopted the Law on Education⁸ (Law On Education), which brings fundamental changes to the field of education in the languages of national minorities. Among other things:

- from now on, persons belonging to minorities can only receive mother-tongue medium education at the kindergarten and elementary school level, but even there only in addition to the state language, i.e. mixed, minority-state language education;
- such education is not carried out in an institution operating in the language of the given minority, but only in Ukrainian-language medium institutions (because according to point 1 of the law, all educational institutions are of Ukrainian language of instruction) in separate classes (groups), i.e. institutions operating in a language other than Ukrainian cease to have the right to exist;
- the possibility of mother-tongue medium education (its legal basis) ceases to exist both in vocational secondary and higher education. Here, if there is a need for it, the conditions are created for learning the language of the minority as a subject;
- at the same time, the legislator leaves a loophole for multilingual education, since one or a few subjects can be taught in two or more languages. But not in any languages: in this case only English and other official languages of the EU can be used.

According to Article 7 of the Law on Education, in relation to the 2012 Law on the Foundations of State Language Policy, which

⁸ Закон України «Про освіту» № 2145-VIII від 5 вересня 2017 р. <http://zakon2.rada.gov.ua/laws/show/2145-19>

was still in force at the time, and the previously valid 1989 Law on Languages in the Ukrainian SSR:

- the right of citizens to freely choose the language of education ceases to exist;
- furthermore, the right of citizens to receive education at all levels and forms of the education in regional or minority languages is no longer guaranteed by the state, or more precisely, such institutions will cease to exist;
- the right of citizens to change the language of education, at any stage, or to create classes and groups in other languages within the framework of the given institution, ceases to exist;
- the possibility of a small number of language groups to establish schools, classes or groups with a lower number of staff and to receive state support for their operation will cease to exist;
- the right of the founders of private educational institutions to designate the language of education ceases to exist;
- the obligation of schools operating in the state language to teach a regional or minority language ceases to exist, and so does the right of local authorities to designate this regional or minority language;
- the obligation and the possibility of translating test questions into minority languages, created for the purpose of external evaluation of the quality of knowledge, also ceases to exist. In other words, after that, the students can only take the tests in the state language in order to enter higher education;
- the state's obligation to prepare teachers for institutions operating in regional or minority languages will cease to exist, which makes sense, since such institutions will no longer exist.

By adopting this text of Article 7 of the Law on Education, the Ukrainian legislator violated many fundamental rights listed in international documents and the Constitution of Ukraine, among others:

- the right to freedom of language use (Article 10, paragraph 3 of the Constitution);
- the right to mother-tongue education (Article 53, paragraph 5 of the Constitution);
- the prohibition of discrimination on the basis of language, since the Article 7 of the Law on Education has classified the citizens of Ukraine into four groups, depending on their native language in relation to the opportunity to receive education in their mother tongue:

1) Ukrainian speakers, education in mother tongue is available at every level and in any form of education;

2) languages of indigenous peoples (up to now, the Ukrainian legislator only included the Crimean Tatars in this category), in whose language general and secondary education is provided;

3) those national minorities whose mother tongue is also the official language of an EU member state;

4) minorities speaking other languages, such as Russians, Belarusians, Gagauzs. (Article 24, paragraph 1 of the Constitution, on the prohibition of discrimination on the basis of language).

In addition to the fundamental rights guaranteed in several international treaties listed above, Article 7 of the Law on Education also violates the provisions of Article 22, Part 3 of the Ukrainian Constitution, according to which it is impermissible to restrict existing rights and freedom when adopting new laws.

The National Multitest was not translated into minority languages in 2022, even though the tasks of external independent testing must be translated by 2030 based on the State Language Act. To the question of the minority organizations, the representatives of the government replied that the multitest is not the same as external independent testing, and therefore the law does not require its translation.

In February 2018, the Constitutional Court of Ukraine repealed the 2012 Law on the Foundations of State Language Policy citing procedural irregularities that occurred when the law was adopted⁹. It should be noted that in this Resolution, the Constitutional Court did not find any provision of the examined law to be unconstitutional, as well as the fact that in the practice of the Constitutional Court so far, this is the only law repealed not due to the personal vote of the members of parliament.

In March 2019, the Supreme Council of Ukraine adopts the law on ensuring the functioning of Ukrainian as a state language¹⁰ (State Language Law). In this legislation, the Ukrainian legislator places the regulation of language relations on the basis of a completely new legal philosophy, which, in our view, is incompatible with the Constitution and international obligations as well.

According to the preamble of the legislation, one of the main goals of the adoption of this law is “to create conditions suitable for the linguistic rights and needs of Ukrainians”. In order to achieve this goal, introduces a citizenship obligation previously unknown to the Ukrainian legal system, the mandatory knowledge of the Ukrainian language. It envisages civil liability for violators of the provisions of this Law, for the deliberate distortion of the Ukrainian language in official documents and texts, for violations of its spelling rules and language standards, as well as for limiting or obstructing its use. In many areas (for example: press, book

⁹ 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» від 28 лютого 2018 року № 2-р/2018. http://ccu.gov.ua/sites/default/files/docs/2-p_2018.pdf

¹⁰ Закон України «Про забезпечення функціонування української мови як державної» від 25 квітня 2019 року № 2704-VIII <https://zakon.rada.gov.ua/laws/show/2704-19#Text>

publishing, internet interfaces, academic activities, sports activities, healthcare, etc.), it introduces rules, mostly requiring the exclusive use of the Ukrainian language – this was previously not subject of legal regulation.

It demands the knowledge of the Ukrainian language as a condition for holding any public office position, including the elected ones, which must be proven with a document in accordance with the provisions of the law. It makes the use of the Ukrainian language exclusively mandatory for nineteen areas of public life, within which allows the use of the languages of national minorities in five areas: cultural events, display of information of public interest, public events, advertising activities, names of institutions and companies. But even in these cases, only “in addition to the Ukrainian language” and “with the order and conditions stipulated by the law on the realization of the rights of indigenous people and national minorities of Ukraine”.

Article 21 of the State Language Law literally repeats Article 7 of the Law on Education and supplements it with two regulations restricting minority languages: entrance exam to higher education takes place exclusively in Ukrainian language (paragraph 3), teaching of foreign languages is allowed only from Ukrainian language (paragraph 7). In accordance with the provisions of 24 points of the 7th numbered paragraph of the Final and Transitional Provisions, it amends the language quotas for radio and television broadcasting defined in the law mentioned, and also: increases the minimum proportion of content broadcasted in the state language from 75% to 90% for broadcasters with national coverage, and for regional or local TV and radio companies to 60-80%. According to the law, these quotas also apply to private broadcasters.

In order to bring it into line with the State Language Law, the Final and Transitional Provisions of this Law stipulate regulations related to the use of the language (the exclusive use of the Ukrainian

language) in 45 sectoral laws, and introduce regulations even into spheres which previously were not regulated in terms of language use (for example: press, book publishing, internet interfaces, scientific activity, sports activity, healthcare, etc.).

At the time of the preparation of this “shadow report” (February 2023), the provisions of this legislation are already in force, with the exception of three legal areas (computer programs and internet displays, locally distributed printed press products, and the obligation to enroll in higher education exclusively in Ukrainian)¹¹.

In July 2019, the Constitutional Court of Ukraine made a decision regarding the petition (lawsuit) of 48 members of parliament questioning the constitutionality of the Law on Education¹². The representatives who filed the lawsuit in October 2017 requested the repeal of the Law and its Article 7 regulating the language of education, given that its normative content violates the constitutional rights of persons belonging to national minorities. Among others violates: Article 53 of the Constitution, the right to education in mother tongue; and the prohibition of discrimination contained in Article 24, by the fact that certain groups of national minorities and indigenous peoples can receive education in mother-tongue on different levels. Furthermore, they raise the obvious violation of Article 22 of the Constitution on the prohibition of taking away (restricting) existing (acquired) rights; as well as the obvious violation of the provisions of the international treaties related to the rights of minorities, such as the obligations

¹¹ See here for a detailed analysis of the State Language Law: <http://real.mtak.hu/135071/1/Ukrainian-language-policy-gone-astray.pdf>

¹² Рішення Конституційного Суду України у справі за конституційним поданням 48 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про освіту» від 16 липня 2019 р. № 10-р/2019, <https://ccu.gov.ua/docs/2803> (2021.12.30)

undertaken in the Charter and the Framework Convention, which is incompatible with Article 9 of the Constitution. They have also criticized the fact that Article 7 of the Law on Education was adopted in violation of the constitutional procedure for law-making, with a normative text that the stakeholders had previously not agreed to.

It should be noted that this Resolution of the Constitutional Court, significantly exceeding the procedural time frame, was born after filing the claim, one and a half years after the publication of the Opinion of the Venice Commission regarding Article 7 of the Law on Education¹³, two years after the publication of the Analytical Report of the Office of the UN High Commissioner for Human Rights on the State Language Law¹⁴. In other words, those who made the decision were aware of all the arguments put forward by international authorities, which speak against the constitutionality of this legislation and highlight its illegality. The Dissenting Opinion of the constitutional judge presiding over the panel attached to the Resolution is noteworthy, in which he points out that the CC did not consider the subject of the petition, which happens to be from the point of view of the rights of national minorities, but based on the legal status of the state language and disregarding the country's

¹³ CDL-AD(2017)030-e Ukraine – 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 Commission at its 113th Plenary Session (Venice, 8-9 December 2017) Opinion No. 902/2017 [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)030-e)

¹⁴ Office of the High Commissioner for Human Rights United Nations Human Rights Mission in Ukraine Analytical Note on the Law „On ensuring the functioning of Ukrainian as the State language” 05/09/2019. <https://ukraine.un.org/en/78513-analytical-note-law-ensuring-functioning-ukrainian-state-language>

international obligations, when making its decision that could not be considered well-founded¹⁵.

Although this Resolution of the Constitutional Court is, in our opinion, of questionable legal value, it is a very important document in domestic policy, as provides basis for the Ukrainian authorities to consider this law as the end of the debate related to the use of languages in general, not only in the field of education, and with the unappealability of their own right, in the future, they abstain from any substantive modification of the legal situation thus formed.

In December 2019, the Supreme Council of Ukraine has adopted the Election Code of Ukraine¹⁶, which codifies and systematizes the bodies of power formed in general elections, such as the president, the parliament (Supreme Council), the Parliament of the Autonomous Republic of Crimea, the councils of counties, districts and inner-city districts, city, village councils, as well as the rules for the election of city and village leaders (mayors) in a single Code. Comparing this legislation with the previously valid regulation, we can conclude that, except for the election of the President of Ukraine, the procedure for the election of other bodies and leaders has fundamentally changed.

According to the new law, the mixed, half-list and half-individual district election system used so far in the parliamentary elections was replaced by an open proportional-party-list system. In this system, the parties that achieve 5% vote share in the national elections receive a parliamentary mandate. The parties

¹⁵ Окрема думка судді Конституційного Суду України Шапталі Н.К. у справі за конституційним поданням 48 народних депутатів України щодо відповідності Конституції України (конституційності) Закону України «Про освіту», https://ccu.gov.ua/sites/default/files/docs/10_p_2019_1.pdf

¹⁶ Виборчий Кодекс України <https://zakon.rada.gov.ua/laws/show/396-20?new=1&find=1&text=%D0%BA%D0%BE%D1%80%D1%96%D0%BD%D0%BD#top>

participating in the elections are obliged to pay a deposit of 5 million Ukrainian hryvnias, which will only be returned to the parties that reach the 5% threshold in the elections.

In case of local authority elections, in administrative units with more than 10,000 voters, members of local authority representative bodies are elected in a system similar to the parliamentary elections.

These legislative changes make literally impossible for parties organized on an ethnic basis, and therefore for representatives of national minorities, to obtain a parliamentary mandate in their own right. In administrative units with a larger population than 10,000 inhabitants representatives can be delegated only by national communities who have their own political party and who collect at least 5% of the votes in the elections in the given administrative unit.

In January 2020, the Supreme Council of Ukraine adopts the Law on Comprehensive and General Secondary Education (Law on Secondary Education)¹⁷ The 5th article 5 of this legislation, which contains the language use of education, repeats the provisions of Article 7 of the Law on Education and Article 21 of the State Language Law, partially amending and partially completing them. Comparing Article 5 of the Law on Secondary Education with the provisions of Article 7 of the Law on Education and Article 21 of the State Language Law, we can conclude that the former:

- defines the extent and proportion of the use of state language and respective minority languages in various stages of the general education process in cases where the language of education is an official language in one of the EU countries. At the level of primary

¹⁷ Закон України «Про повну загальну середню освіту» від 16 січня 2020 року № 463-IX <https://zakon.rada.gov.ua/laws/show/463-20#Text> (2021.12.12)

education, children belonging to one of these minority groups are entitled to receive education in their mother tongue in addition to the state language. At the level of elementary education, from the 5th grade, at least 20% of the annual school time is taught in the state language, which increases to 40% in the 9th grade. At the level of secondary education (grades 10-12), this must be no less than 60%. From the 5th grade, at least 80% of the school time is taught in Ukrainian for other, non-indigenous people and speakers of non-EU official languages.

- allows one or a few subjects to be taught in English or in another EU official language in general secondary education institutions.
- specifies that private educational institutions providing general secondary education, financed by natural and/or legal persons (except those that also receive public funds) are entitled to freely choose the language of education and are obliged to ensure that students learn the state language according to the state standard appropriately.

On 14 July 2021, the Resolution of the Constitutional Court of Ukraine No. 1-p/2021¹⁸ establishes the constitutionality of the State Language Law. The members of parliament who submitted the claim, repeating the objections and arguments raised in their previous claim in several cases (CC Resolution of 2019), have requested the determination of the unlawful nature of all the provisions of the State Language Law, which provides additional rights to native peoples and speakers of the official languages of the EU, compared to all those, who do not belong to these categories,

¹⁸ Рішення Конституційного Суду України № 1-п/2021 від 14 липня 2021 р. у справі за конституційним поданням 51 народного депутата України щодо відповідності Конституції України (конституційності) Закону України «Про забезпечення функціонування української мови як державної», <https://ccu.gov.ua/docs/3944>

and are the most numerous national and linguistic minority: the Russian-speaking people and Russian nationals. The motivational (reasoning) part of this document deserves special attention, because the constitutional judges summarize all the motivations and arguments in a text of 47 pages, which, in their opinion establishes and even makes necessary a fundamental change in the policy towards languages and ethnic minorities from a legal-philosophical and legal-political point of view. We quote some of the formulated ideas:

- “...the legal status of the Ukrainian language as the official state language, defined in the first and second parts of Article 10 of the Constitution, is also a fundamental constitutional value, a significant criteria and key element of the state unity of Ukraine, as well as an inalienable part of the state's constitutional identity.” (page 8, first paragraph)
- “...the Ukrainian language, due to its nation-building nature, is the fundamental system-creator element of the Ukrainian statehood and is the base of the state as well. As the language of the indigenous, largest people and eponymous nation of the state, Ukrainian has the status of the only state language, which corresponds to worldwide practice (penultimate paragraph on page 8).
- “Endangering the Ukrainian language is equivalent to endangering the state security of Ukraine, the existence of the Ukrainian nation and the nation-state.” ... “Without the full operation (functioning) of the Ukrainian language in all parts of public life, throughout the entire territory of Ukraine, the Ukrainian nation is threatened with the loss of the legal status of the nation that has given the state its name and created the state; this would be equivalent with the disappearance of the Ukrainian state from the political map of the world. ... therefore, any questioning related to the status of the Ukrainian language as the state language is impermissible on the territory of Ukraine, as this undermines the

state's constitutional order, endangers the security of the state, and the existence of Ukraine's statehood.” (penultimate paragraph on page 8)

- “Public mockery of the Ukrainian language or its intentional discrediting is a threat to the constitutional order of Ukraine and a violation of the national dignity of its citizens, which should result in liability under the law. The Ukrainian language must be used in accordance with the standards of the state language. It is unacceptable to violate the standards and rules of use of the Ukrainian language.” (page 9 penultimate paragraph)
- “The knowledge (skills) of the state language of indigenous peoples and national minorities also protects the right of persons belonging to the state-forming nation to freely use the state language in all segments of the public life throughout Ukraine.” (last paragraph of page 10).

Based on such and similar postulates, the Constitutional Court makes the following findings, among others:

- In Ukraine, the Ukrainian nation not only gives the name (title) to the state, but is also the only state-creating (state-building) nation (page 9, paragraph 1);
- the country's citizens are divided into state-forming (state-building) nations and national minorities, the relationship between them is based on mutual recognition of each other's values. At the same time, the state language and the languages of national minorities are not equal in terms of their legal status and function either. The state must ensure the equal rights to learn the official language of the state for the nation that gave the state its name and for persons belonging to minorities as well (page 12, point 4.2);
- the separation of a person (or even a group) from the unified society into the space of their own identity threatens the unity of the Ukrainian society (p. 13, point 4.2);

- education in other languages than the official state language within the framework of the education system, can only be implemented only to the extent that it is not harmful to the acquisition of the state language or to receiving education in the state language (p. 14, point 4.4);

- ensuring the linguistic rights of persons belonging to national minorities cannot be done at the expense of learning the state language and its practical application in all areas of public (social) life throughout Ukraine (p. 14–15, point 4.6);

- the use of a bilingual system in the public space, in which the Ukrainian language is mixed with any other language, does not comply with the constitutional status of Ukrainian as the only state language (page 16, point 4.10);

- international law, including the Framework Convention and the Charter, gives to the states a wide margin of appreciation to develop their own models for ensuring the rights of national minorities (pp. 36–37, point 13.1), and the legislator has acted fully legitimately by complying with the obligations undertaken in the above named conventions when adopting the State Language Law.

The Constitutional Court does not regard as discrimination either the fact that in certain areas of social relations the only language that can be exclusively used is Ukrainian, nor the fact that in other areas offers different opportunities and rights for the representatives of certain minority groups depending on whether they are indigenous peoples, speakers of an EU language, or are classified in the other category by the examined law, because the State Language Law itself states that “every citizen is obliged to know the state language”. Therefore, a citizen who speaks the state language has access without being discriminated to any information and service. (pp. 21–22, point 6.2).

The statement of the claimants that the Law makes impossible or significantly restricts the possibility of using the Russian

language in many areas of social life, for example mass media, book publishing, science, etc., is refused by the Constitutional Court by stating that during the examination of this law, not a single regulation was found that directly prohibits the use of the Russian language (p. 29).

Since the claim also contains a reference to the opinion of the Venice Commission regarding this Law published in December 2019, the Constitutional Court states on the one hand that the investigation of the constitutionality of the Law was left to its (Constitutional Court) competence by the Venice Commission. On the other hand, the Constitutional Court acknowledges the existence of critical comments regarding the differentiated treatment of different language groups. And at the same time, states that such discriminatory regulations and measures as may be included in the Law are sufficiently grounded in the specific situation in Ukraine and are fully proportionate in order to reach the legitimate goal pursued by the Law: to ensure the functioning of Ukrainian as the state language in all spheres of social life, throughout the entire territory of the country. (pp. 36–37).

The CC specifically justifies the "extra rights" that the State Language Law grants to minorities speaking the official languages of the EU compared to those speaking non-EU languages (for example, Russians). According to them, this should be seen as a means of bringing Ukraine closer to the values of a united Europe (page 39, point 13.3). The CC also considers the provisions of the State Language Law to be legitimate because, in its opinion, despite the status of the state language, the Ukrainian language in Ukraine is still in a situation which threatens its existence (as a result of the ethnic Ukrainians being discriminated against in some regions of their own country), therefore, according to provisions of the Charter, they must receive special protection from the state (p. 40, point 13.4).

As regards to the issue of non-compliance with the obligations assumed in the Framework Agreement, Resolution point 13.5. responds by stating that the right of persons belonging to national minorities to receive education exclusively in their mother tongue cannot be derived from the Framework Convention. According to Article 14.3 of the Framework Convention, states are entitled to set stricter requirements for learning the state language. Studying in the state language is the most efficient tool that ensures the integrity of the society. The realization of the rights of national minorities cannot result in segregation and cannot threaten the unity of the society either (p. 41).

Furthermore, the CC states that the educational system was characterized by segregation even in those cases when the language of the national minorities was the only language of education. As a result, an asymmetric situation arose in language skills. This undesirable situation was eliminated by the 2017 Law on Education (pages 42-43, point 13.6).

According to the provisions of point 13.7 of the Resolution, “In many communicative situations in the public sphere of social life, the current situation of the Ukrainian language and its use in practice still does not fit the legal status of the state language. Linguistic self-limitation of the population is a widespread phenomenon, there are those who only use Russian or another minority language and do not strive to learn the Ukrainian language.” And this cannot be considered acceptable, since the 1989 language law of the USSR defined the status of the Ukrainian language as the only official state language, and those more than 30 years which have passed since then should have been enough for all citizens to learn the language.

Pages 43-49 of the Resolution deal with the problem of the Russian language. On one hand, it states that “At the level of state policy defined by law by the legislator, the possibilities for the

realization of the linguistic rights of Russians as a national minority were not limited in any way, the extent and content of these rights were not narrowed.” (p. 44, paragraph 1), while on the other hand the document states that “The Constitutional Court takes into account the objective circumstance that the Russian Federation, an aggressor state, is a long-term, systemic threat to Ukraine's national security”. “The state power of the Russian Federation uses the Russian language as a tool of geopolitical expansion...”

The CC rejects the claim for an examination of compliance with the Language Charter, stating that the Law under review cannot in any way be a tool for implementation of the above named international document, because as it is clearly stated in their titles and the content of their normative texts: the subject of regulation of these laws are different. Therefore, the premise of asking for compliance is artificial and legally incorrect. (Point 15, p. 52-53)

In our opinion, with this Resolution, the CC not only that reinterpreted, but actually rewrote the current Constitution of Ukraine, practically eliminating all guarantees that apply to the free use of the mother tongue, education in mother tongue, the free choice of identity and the prohibition of discrimination as well. In order to do all of this, introduces the concept of “the state-building nation” into the Ukrainian legal order, which is unknown to the Constitution, and gives a very specific interpretation to Ukraine's international obligations in this area of law.

In July 2021, the Supreme Council of Ukraine has adopted the law on the indigenous people of Ukraine without any substantive debate, in a single reading, almost by public outcry, without any dissenting vote ¹⁹ (Law on Indigenous People). According to this Law, the indigenous people of Ukraine

¹⁹ Закон України «Про корінні народи України від 1 липня 2021 р. № 1616-IX <https://zakon.rada.gov.ua/laws/show/1616-20#Text>

are a native ethnic community formed on the territory of Ukraine; they have their own language and culture, traditional social, cultural or representative bodies, consider themselves indigenous people of Ukraine, constitute an ethnic minority among the population, and do not have an own state outside the borders of Ukraine (Article 1, paragraph 1).

The document not only sets the criteria for belonging to indigenous community as described above, but also defines the physical territory of Ukraine where such communities could have formed: namely the Crimean peninsula. Indigenous communities are thus Crimean Tatars, Karaims and Krimchaks. (Article 1, paragraph 2). So, the drafters not only have decided who the indigenous people can be, but they have also, implicitly stated who can not: those who have a national state (motherland), those who do not live on the Crimean peninsula, basically those who are not Crimean Tatars, Karaims or Krimchaks.

This Law introduces a fundamental innovation into the Ukrainian legal system, which happens to be the recognition of the (internal) right of self-determination of minority people - communities recognized as indigenous. According to the document, indigenous peoples in Ukraine have the right to self-determination, which means defining their own political status within the framework of the law, as well as the right to independent economic, social and cultural development. In the framework of such self-determination, indigenous peoples are entitled to self-government in all matters that fall within their internal affairs. Such an issue is the way of establishing the representative body, which body is established and carries out its activities in accordance with the Constitution and laws of Ukraine (Article 2).

Constitutionality, legal clarity and precision would of course require the amendment of the constitution, which should have been done even before the adoption of the Law, or at the same time, since

this Law, by creating the representative body of the indigenous people, creates a public authority (institution) previously unknown to the Constitution. But since neither before nor after its adoption do we encounter any intention to do so, we can reasonably assume that the state authorities do not actually intend to implement this Law or its provisions.

Although this legislation has only symbolic significance for the indigenous communities named above, since Ukraine does not allow any community to exercise sovereign rights over its territory, however, at the same time the law contains a very specific negative message directed to the communities not listed above (i.e. Transcarpathian Hungarians). Only the nationalities recognized as being indigenous are entitled to the rights that are essential for the preservation of the national-cultural identity, such as mother-tongue medium education, effective participation in public affairs, internal self-government (cultural autonomy). While according to the currently (formally) valid 1992 Law on National Minorities of Ukraine²⁰, all Ukrainian minorities are entitled to all of these.

On December 13, 2022 the Supreme Council of Ukraine adopted the law On national minorities (communities) of Ukraine²¹.

When, on June 17, 2022, the European Commission decided to support Ukraine's application to join the European Union, it did not forget about the issue of minorities. On page 13 of the document it says:

“The rights of persons belonging to minorities are constitutionally guaranteed in Ukraine. The respect for rights of

²⁰ Закон України «Про національні меншини в Україні» № 2494-ХІІ від 25.06.1992 р. <http://zakono.rada.gov.ua/laws/show/2494-12>

²¹ Закон України «Про національні меншини (спільноти) України». <https://zakon.rada.gov.ua/laws/show/2827-20#Text>

persons belonging to national minorities in the field of education and language and their representation in elected bodies in all levels of public life needs to be ensured by fully implementing the recommendations of the Council of Europe's Venice Commission on the education law, implementing those on the State language law and taking into account the last monitoring cycle of the Framework Convention on National Minorities. While Ukraine has taken steps to implement the recommendations of the Venice Commission, it needs to finalise its reform of the legal framework for national minorities and to adopt effective implementation mechanisms.”²²

The document states clearly (pages 20-21):

“The Commission, therefore, recommends that Ukraine be granted candidate status, on the understanding that the following steps are taken:

(...) finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission, and adopt immediate and effective implementation mechanisms”.

In order to fulfill this condition, the Supreme Council of Ukraine adopted the law On national minorities (communities) of Ukraine²³ on December 13, 2022. With the adoption of the law, Kyiv took a step towards paying off its old debt, as the government already undertook to create a minority law in 2019 (in the state language law).

However, the new law on national minorities (communities) is not suitable for settling the situation of minorities in a

²² Commission Opinion on Ukraine's application for membership of the European Union. Brussels, 17 June 2022 COM (2022) 407 final. <https://data.consilium.europa.eu/doc/document/ST-10321-2022-INIT/en/pdf>

²³ Закон України «Про національні меншини (спільноти) України». <https://zakon.rada.gov.ua/laws/show/2827-20#Text>

satisfactory manner. For example, the new law effectively strengthens provisions contained in the Law on Education or the State Language Law that restrict the rights of minorities. It is typical that Kyiv did not meaningfully consult the representatives of the minorities before adopting the law. Kyiv did not send the draft law on minorities to the Venice Commission either for control.

Chapter II

Implementation of the commitments made in the Framework Agreement and the recommendations made by the Advisory Board.

Recommendation of the Advisory Board regarding the fourth country report of Ukraine on the general accessibility and social discussion regards the monitoring documents of the Framework Convention.

In the Advisory Board's Opinion on Ukraine's 4th Report on the Implementation of the Framework Convention²⁴ it is noted with regret that after the completion of the previous, third round of monitoring, its results, and therefore the Resolution of the Council of Ministers, were not discussed in any social forums. Also, neither the mentioned document nor the Opinion of the Consultation Committee were translated into either Ukrainian or minority languages, which significantly limited the access of national minorities to the content of these documents (numbered paragraph 5 of the Opinion). That is why they recommend that the state authorities of Ukraine translate this document and the Resolution of the Council of Ministers based on it, into Ukrainian

²⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Ukraine – adopted on 10 March 2017, Published on 5 March 2018, ACFC/OP/IV(2017)002,

and minority languages, and distribute it widely among those interested and affected (paragraph 8).

At the time of the preparation of this “shadow report” (February 2023), these documents had still not been translated into Ukrainian or any of the languages of national minorities, and their social discussion had not taken place either. Thus, these documents are still inaccessible to persons belonging to national minorities in Ukraine (who do not speak English or French).

The Ukrainian version of the draft of Ukraine's 5th Report was released for public discussion. The comments and suggestions made by the organizations representing national minorities regarding this document (attached to our "shadow report") were not taken into account in the final document of the 5th Report sent to the Secretary General of the CoE. It should be noted that the text of the 5th Report also exists only in English in the public sphere.

Article 1

The protection of the rights and freedoms of national minorities and individuals belonging to these minorities is an integral part of the international protection of human rights and, as such, falls within the framework of international cooperation.

According to Article 4 of the law of Ukraine on National Minorities in Ukraine (1992)²⁵, the rights of national minorities are designed on the basis of the Constitution of Ukraine, the cited law, other Ukrainian legislation, and Ukraine's international treaties.

²⁵ Закон України «Про національні меншини в Україні». <https://zakon.rada.gov.ua/laws/show/2494-12#Text>

According to Article 9 of the Constitution of Ukraine ²⁶, the country's international treaties are part of the national legal order. Law of Ukraine on international treaties of Ukraine, ²⁷ Article 19, point 1 confirms the relevant provision of the constitution. Point 2 states: "If an international treaty signed by Ukraine which has also entered into force establishes different rules than the relevant legislation of Ukraine, the rules of the international treaty must be applied."

For Ukraine, which became independent after the collapse of the Soviet Union in 1991, joining the Council of Europe (CoE) was one of the first and very important steps in European integration. In document No. 190 (1995) of the CoE Parliamentary Assembly ²⁸ the following points were prescribed as part of the conditions for the country's accession to the Council of Europe, and Ukraine undertook to fulfill them: (a) ratify the Framework Convention on the Protection of National Minorities (hereinafter: Framework Convention) within one year of accession; (b) pursue policy towards ethnic minorities in accordance with the Framework Convention and CoE 1201 (1993) Recommendations; (c) within one year of accession, Kyiv signs and ratifies the European Charter for Regional or Minority Languages (hereinafter: the Charter).²⁹

²⁶ Конституція України [Constitution of Ukraine]. <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

²⁷ Закон України «Про міжнародні договори України». <https://zakon.rada.gov.ua/laws/show/1906-15#Text>

²⁸ PACE Opinion 190 (1995), 26/9/95. Application by Ukraine for membership of the Council of Europe. Para 12.7. <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=13929&lang=en>

²⁹ The document in the Ukrainian legal order: Висновок N 190 (1995) Парламентської Асамблеї Ради Європи щодо заявки України на вступ до Ради Європи. https://zakon.rada.gov.ua/laws/show/994_590. In the document in Ukrainian, see 11.xiii., 12.v., and 12.vii.

The young Ukrainian state became a member of the CoE on November 9, 1995.³⁰ Although with some delay, the Supreme Council of Ukraine ratified the Framework Convention in 1997³¹, and the Charter in 1999³² as promised. These two international documents became part of the Ukrainian legal order. However, in reality, Ukraine has no intention of applying these international conventions in practice. This is indicated, for example, by the events surrounding the Charter.

The application of the Charter in accordance with the 1999 ratification law has never taken place in Ukraine, the law has never been deposited with the Secretary General of the CoE. The Constitutional Court has cancelled the legislation on ratification – citing formal reasons.³³ The reason for withdrawing the law was that the ratification law was not signed and promulgated by the president, but by the president of the parliament. However, until the resolution, several ratification laws were signed by the president of the parliament in Ukraine, but only this one was rejected by the resolution of the Constitutional Court. The political intention was obviously for Ukraine to fulfill its international obligations and formally ratify the Charter, but for the international document not to enter into force. After that, several new drafts

³⁰ <https://www.coe.int/en/web/programmes/ukraine>

³¹ Закон України „Про ратифікацію Рамкової конвенції Ради Європи про захист національних меншин”. <https://zakon.rada.gov.ua/laws/show/703/97-%D0%B2%D1%80>

³² Закон України «Про ратифікацію Європейської хартії регіональних мов або мов меншин, 1992 р.» <https://zakon.rada.gov.ua/laws/show/1350-14#Text>

³³ 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. <https://zakon.rada.gov.ua/laws/show/v009p710-00>. Hereafter: Рішення 2000

were presented to the parliament until Ukraine finally ratified the Charter again in 2003.³⁴ However, the ratification document was deposited with the CoE Secretary General only two years later: on September 19, 2005, and thus the Charter entered into force in Ukraine only on January 1, 2006. In the version of the Charter ratified in 2003, the country assumed much fewer obligations than in 1999: on one hand, Ukraine committed to apply fewer paragraphs, and on the other hand, chose to apply lower-level obligations. The Ukrainian state still puts many obstacles to the application of the Charter.³⁵

The application of the Framework Convention in Ukraine did not cause as many disputes as the Charter. At the same time, it is also a fact that the implementation of the Framework Convention in Ukraine raises at least as many questions as that of the Charter. It is no coincidence that with the help of Transcarpathian Hungarian advocacy organizations and experts, alternative reports were prepared and submitted to the competent bodies of the CoE on this topic.³⁶

³⁴ Закон України «Про ратифікацію Європейської хартії регіональних мов або мов меншин». <https://zakon.rada.gov.ua/laws/show/802-15#Text>

³⁵ *The continuous restriction of language rights in Ukraine*. Berehovo-Uzhhorod: KMKSZ, 2020. https://hodinkaintezet.uz.ua/wp-content/uploads/2020/04/THE-CONTINUOUS-RESTRICTION-OF-LANGUAGE-RIGHTS-IN-UKRAINE_merged.pdf

³⁶ Text prepared in connection with the application of the Framework Convention in Ukraine: https://hodinkaintezet.uz.ua/wp-content/uploads/2020/01/Written-Comments-Framework-Convention_2017.pdf; a Karta regarding: https://hodinkaintezet.uz.ua/wp-content/uploads/2020/01/Written-Comments-Charter_2016.pdf; https://hodinkaintezet.uz.ua/wp-content/uploads/2020/01/Written-Comments-Charter_2019.pdf. A short, easy-to-understand summary of the Charter's application in Ukraine was also prepared in English: https://hodinkaintezet.uz.ua/wp-content/uploads/2021/03/Alternative_report.pdf.

Article 2

The provisions of this Framework Convention shall be applied in good faith, in a spirit of mutual understanding and tolerance, and in accordance with the principles of good neighbourly, friendly relations and cooperation between States.

Since 19 of Ukraine's administrative units border with other states, the first tasks for the state that became independent in 1991 included building good neighbourly relations. Therefore, in the first half of the 1990s, the new Ukrainian state concluded basic agreements with its neighbours on the protection of the rights of minorities. The first agreement, minority protection declaration was exactly the Ukrainian-Hungarian basic agreement concluded in 1991.

However, by the time these international conventions were born, the foundations of minority protection had already been codified in the internal laws of Ukraine, and these international conventions essentially did not enhance these rights.³⁷ The only exception is the contract on good neighbourly relations and cooperation concluded with Romania in June 1997³⁸, Article 13 of which stated that Recommendation 1201 of the Parliamentary Assembly of the Council of Europe should be included in the list of mandatory documents in the field of minority protection; however, with the exception of the collective rights of minorities and their rights to territorial autonomy based on the ethnic principle.

The Convention on the Protection of Persons Belonging to National Minorities concluded in October 1994 within the

³⁷ Товт М. Міжнародно-правовий захист національних меншин (тенденції сучасного розвитку). Ужгород: Інформаційно-видавниче агентство „ІВА”, 2002.

³⁸ Договір про відносини добросусідства і співробітництва між Україною та Румунією. https://zakon.rada.gov.ua/laws/show/642_003#Text

framework of the Commonwealth of Independent States (CIS)³⁹ despite its regional nature, could play a significant role at the level of bilateral relations, as it is referred to in several basic agreements concluded with former Soviet member states (e.g. Kazakhstan, Armenia). In this case, however, a strange situation arose, and in recent years the question of whether Ukraine joined the Commonwealth of Independent States or not has become controversial in Ukraine.

Among the minority protection agreements concluded with neighboring countries, the Ukrainian-Hungarian basic agreement concluded in 1991⁴⁰ and minority protection declaration was the first. However, when a dispute arose between Kyiv and Budapest regarding the enforcement of the rights of the Hungarian national minorities living in Ukraine, quickly became clear that the basic agreement and the related minority protection declaration are worthless in this regard.

After the adoption of the 2017 Education Framework Law⁴¹, Hungarian diplomacy protested against the law restricting the rights of the Transcarpathian Hungarian community. One of the main points of reference for the protest was that in the Ukrainian-Hungarian Basic Treaty, Ukraine has guaranteed the right to education in the mother tongue for the Hungarian national minority in a bilateral agreement. However, in the statement

³⁹ Конвенція СНД про забезпечення прав осіб, що належать до національних меншин (1994 р.) Права людини в Україні. Вип. 21. Київ, 1998. 408–412.

⁴⁰ The text of the contract in Ukrainian: Договір про основи добросусідства та співробітництва між Україною і Угорською Республікою. http://zakon5.rada.gov.ua/laws/show/348_004. The text of the contract in Hungarian: Szerződés a jószomszédság és az együttműködés alapjairól a Magyar Köztársaság és Ukrajna között. http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99500045.TV

⁴¹ Закон України «Про освіту». <https://zakon.rada.gov.ua/laws/show/2145-19#Text>

attached to the basic agreement, which can be called the most important document of Hungarian-Ukrainian diplomatic relations, the clause regarding the language of education is different, despite the fact that according to the official formula: “Both texts are equally authentic”.

Article 10 of the document *Declaration on ensuring the rights of minorities*, which belongs to the basic contract, states in Hungarian: the parties agree to ensure the possibility that “national minorities learn in their mother tongue and study on their mother tongue”.⁴² In Ukrainian, however, the conjunction "or" is used instead of “and”⁴³, which allows a completely different interpretation (learn a few subjects in their mother tongue or study every subject on their mother tongue).

So these are two partially contradictory texts. Until the texts are standardized, both the Budapest and Kyiv governments can interpret them conform their own perspective.

Article 3

- 1. Every person belonging to a national minority has the right to freely choose whether or not to be treated as a minority, and not to suffer any disadvantages from their choice or from exercising their rights related to their choice.**
- 2. Persons belonging to national minorities may exercise their rights and freedoms derived from the principles contained in**

⁴² Declaration on the principles of cooperation between the Republic of Hungary and the Ukrainian Soviet Socialist Republic in the field of ensuring the rights of national minorities. <https://adattar.adatbank.transindex.ro/ketoldal/dec-uk-h.html>

⁴³ Декларація про принципи співробітництва між Українською РСР та Угорською Республікою по забезпеченню прав національних меншостей. https://zakon.rada.gov.ua/laws/show/348_322#Text

this Framework Convention individually and in community with others.

Provisions on elections in Ukraine are summarized in the Election Code of Ukraine.⁴⁴ Neither this vast law nor any other Ukrainian law currently in force contains any special provision that would provide an institutional framework for the national communities and the persons belonging to them to present their national-cultural or linguistic needs, to present and protect their related community interests.

This is a situation that arose in 2012, with the amendment⁴⁵ of the law on national minorities⁴⁶. Until then, the law on national minorities enabled the creation of consultative bodies made up of representatives of national minorities in addition to local councils, as well as the existence of a council of representatives of nationalities, which had to be established within the framework of the relevant central executive body (Article 5 of the unamended law). With the same amending law, the legislator abolished the right of minority organizations to nominate representative candidates in national and local elections, which was made possible by the original, unamended Article 14 of the Law on National Minorities.

⁴⁴ Виборчий Кодекс України <https://zakon.rada.gov.ua/laws/show/396-20?new=1&find=1&text=%D0%BA%D0%BE%D1%80%D1%96%D0%BD%D0%BD#top>

⁴⁵ Закон України «Про внесення змін до деяких законодавчих актів України щодо діяльності Міністерства юстиції України, Міністерства культури України, інших центральних органів виконавчої влади, діяльність яких спрямовується та координується через відповідних міністрів, а також Державного космічного агентства України». <https://zakon.rada.gov.ua/laws/show/5461-17#n54>

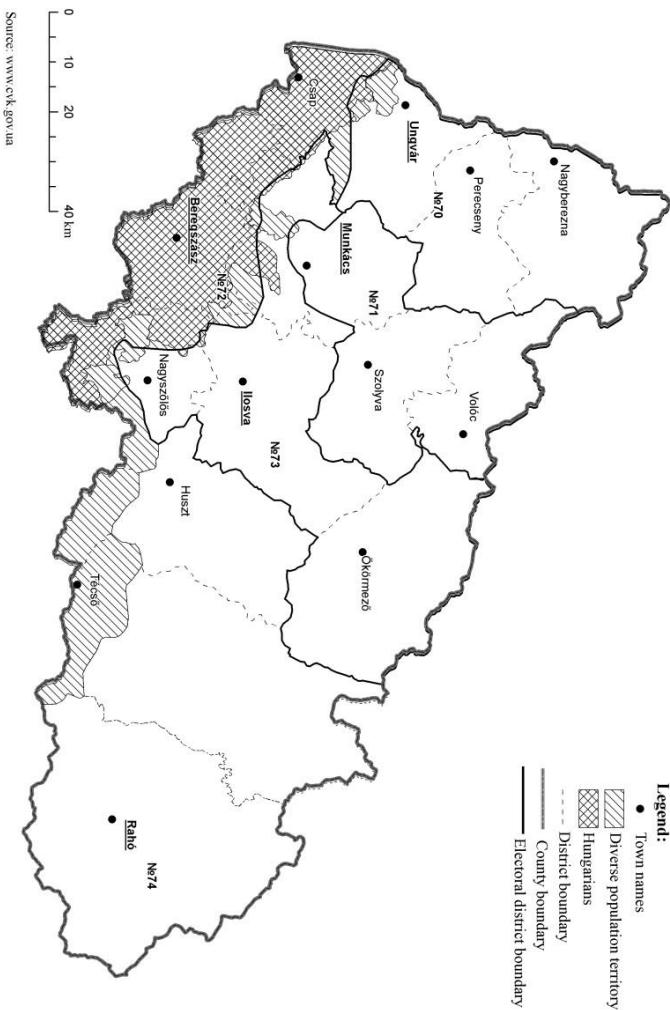
⁴⁶ Закон України «Про національні меншини в Україні» <https://zakon.rada.gov.ua/laws/show/2494-12#Text>

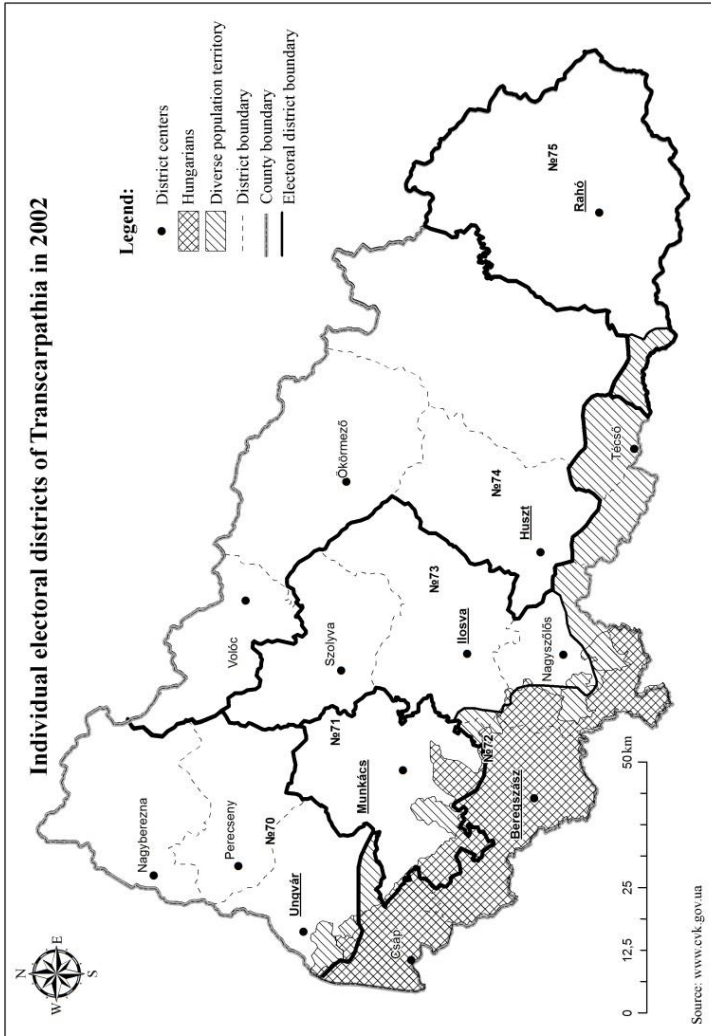
According to the Election Code of Ukraine which has entered into force on January 1, 2021,⁴⁷ parliamentary elections are organized in a party-list system. This means that the Ukrainian national minorities (including Transcarpathian Hungarians) do not have the opportunity to be directly represented in the Ukrainian parliament through individual district elections. The previous election regulations made possible for the Transcarpathian Hungarian national minority to send a representative to the Kyiv parliament several times. In Ukraine, which became independent in 1991, the following delegates represented the interests of the Transcarpathian Hungarian national minority in the Verkhovna Rada: in cycle II (1994–1998) Mihály Tóth, in cycle III (1998–2002) Miklós Kovács, in cycle IV (2002–2006) and in cycle VII (December 2012 – November 2014) István Gajdos, in cycle VIII (2014–2019), László Brenzovics. In cycle IX, which started in 2019, there is no Hungarian representative in the Kyiv parliament.

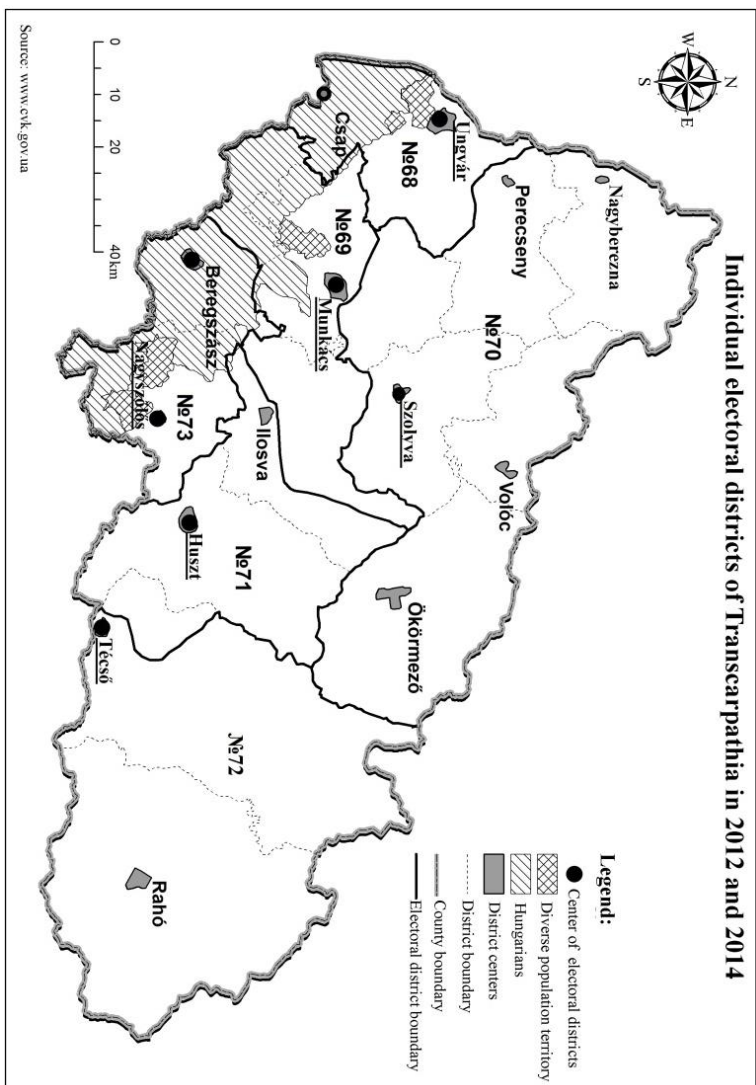
Resolution 1985 (2014) of the Parliamentary Assembly of the Council of Europe calls on Council of Europe member states to: “10.5.7. adopt election legislation that will enable pluralistic political representation of minorities.” It must be achieved that during the upcoming parliamentary and municipal elections, Ukraine takes into account the recommendations of the Council of Europe.

⁴⁷ Виборчий Кодекс України <https://zakon.rada.gov.ua/laws/show/396-20?new=1&find=1&text=%D0%BA%D0%BE%D1%80%D1%96%D0%BD%D0%BD#top>

Individual electoral districts of Transcarpathia in 1998







Chapter III

Article 4

1. The Parties undertake to ensure equality before the law and the right to equal protection under the law for all persons belonging to national minorities. In this regard, any discrimination based on belonging to a national minority is prohibited.

Recommendation of the Advisory Board regarding the fourth country report of Ukraine:

To create immediately, in direct consultation with the affected groups, appropriate and fully comprehensive legal bases for the protection of ethnic minorities, including effective mechanisms for their implementation. (numbered paragraph 48)

2. The Parties undertake to accept that, if necessary, they will take appropriate measures in order to promote full and effective equality between persons belonging to national minorities and those belonging to the majority in all areas of economic, social, political and cultural life. In this regard, appropriate attention is paid to specific circumstances of persons belonging to national minorities.

3. Measures taken in accordance with the provisions of paragraph 2 cannot be evaluated as discrimination.

Article 24 of the Constitution of Ukraine⁴⁸ stipulates that there shall be no privileges or restrictions based on ethnic, linguistic or other characteristics. However, the norm is sometimes provided as an argument in public debates particularly, on the issue of full and effective equality for minorities. Representatives of the Ukrainian

⁴⁸ Конституція України [Constitution of Ukraine]. <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

state often interpret this section of the Constitution as one that forbids positive discrimination of national minorities.

It is important to highlight that only the Constitution of Ukraine contains provisions on non-discrimination regarding the implementation of the right of equality before the law and of equal protection of the law laid down in Article 4 of the Framework Convention. Lower-level legislation of civil and administrative law does not include detailed regulations on protection against discrimination of natural entities. Thus, in this regard it would be recommended to develop and ascertain mechanisms for protection against discrimination of natural entities at the level of law.

According to article 21 of the State Language Law⁴⁹, Article 7 of the Education Framework Law⁵⁰ and Article 5 of the Law on General Secondary Education⁵¹ the Ukrainian state divides the citizens of Ukraine into four large groups based on their rights regarding the language of education. The majority (Ukrainians) belong to the first group: they are not affected by the legislative amendments, as they can continue to study in their native language. Representatives of the indigenous peoples (actually the Crimean Tatars) can also continue their studies in their mother tongue “in addition to the state language”. Representatives of national minorities using one of the official languages of the European Union as their mother tongue (Hungarians, Romanians, Poles, Bulgarians) can study in their own language in the lower

⁴⁹ 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#Text>

⁵⁰ Закон України «Про освіту» [Law of Ukraine "On Education"]. <https://zakon.rada.gov.ua/laws/show/2145-19#Text>

⁵¹ Закон України «Про повну загальну середню освіту». [Law of Ukraine "On Complete General Secondary Education"] <https://zakon.rada.gov.ua/laws/show/463-20#Text>

grades (grades 1–4), but in grade 5 they study at least 20% of the annual number of lessons in the state language, and by the 9th grade, this proportion must reach 40%; in grades 10–12, they must study at least 60% of the annual number of lessons in Ukrainian. National minorities speaking a non-EU language (Russians, Belarusians) study at least 80% of the annual number of lessons in the state language from the 5th grade (Table 1).

Table 1. The maximum rate (in %) of the appearance of the mother tongue at different levels of public education

	Grade 1–4.	Grade 5.	Grade 9.	Grade 10–12.	Who are affected?
representatives of the majority nation	100	100	100	100	Ukrainians
indigenous people	100	100	100	100	Crimean Tatars, Karaims, Krimchaks
national minorities whose language is an official language in the EU	100	80	60	40	Hungarians, Romanians
national minorities whose language is not an official language in the EU	100	20	20	20	Russians

The Venice Commission, while wording their opinion, have strongly condemned the discrimination of national minorities on the basis of whether their mother tongue is an official language in the EU or not.⁵²

⁵² CDL-AD (2017) 030. Opinion on the provisions of the Law on Education of 5 September 2017, which concern the use of the State language and minority and

The international legal body has emphasized this position not only in relation to the Law on Education, but also in its opinion issued on December 9, 2019, regarding the State Language Law, which specifically evaluated the State Language Law negatively.⁵³ In the meantime, on January 16, 2020, the Kyiv parliament has also adopted the law on general secondary education, which also divides the population of Ukraine into the groups defined above.⁵⁴

Article 7 of the Law on Education was criticized by the Council of Europe (CoE)⁵⁵ and by the Venice Commission of The CoE as well.⁵⁶

On October 6th, 2017, 48 members of the Ukrainian parliament have submitted a petition to the Constitutional Court of Ukraine⁵⁷, in which they have requested a declaration of the

other languages in education. Opinion no. 902/2017. Strasbourg, 11 December 2017. [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)

⁵³ CDL-AD(2019)032. 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)

⁵⁴ Закон України «Про повну загальну середню освіту». [Law of Ukraine "On Complete General Secondary Education"] <https://zakon.rada.gov.ua/laws/show/463-20#Text>

⁵⁵ Resolution 2189 (2017) of Parliamentary Assembly of the Council of Europe. 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>

⁵⁶ CDL-AD (2017) 030. 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. Opinion no. 902/2017. Strasbourg, 11 December 2017. [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)

⁵⁷ Конституційне Подання щодо відповідності Конституції України (неконституційності) Закону України «Про освіту» від 05 вересня 2017 року № 2145-VIII. http://www.ccu.gov.ua/sites/default/files/3_4072.pdf

unconstitutionality of the Law on Education. However, the Constitutional Court of Ukraine in its resolution issued on July 16, 2019⁵⁸ did not declare the education law unconstitutional.

The Constitutional Court does not mention a single word about the Venice Commission's resolution issued on December 2017 regarding this law and the criticisms and recommendations made therein. Despite the fact that point 15 of the resolution of the Parliamentary Assembly of the Council of Europe issued on October 12, 2017 states: "The Assembly asks the Ukrainian authorities to fully implement the forthcoming recommendations and conclusions of the Venice Commission and to amend the new Law on Education accordingly."⁵⁹

The resolution of the Committee of Ministers of the Council of Europe issued on December 8, 2020 states: "Implement the recommendations contained in the Venice Commission Opinion on the Provisions of the Law on Education of 5 September 2017".⁶⁰

However, despite international recommendations, the Ukrainian government is not willing to end the discrimination of

⁵⁸ 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 in the case of the constitutional petition of 48 People's Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Education", No. 10-r/2019.] https://ccu.gov.ua/sites/default/files/docs/10_p_2019_o.pdf

⁵⁹ Resolution 2189 (2017) of the Parliamentary Assembly of the Council of Europe. 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>

⁶⁰ Resolution CM/ResCMN(2020)13 on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine. (Adopted by the Committee of Ministers on 8 December 2020 at the 1391st meeting of the Ministers' Deputies). https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a07742

citizens on ethnic grounds. This significantly harms the equality of citizens before the law.

On July 1, 2021, the Kyiv parliament adopted the law on indigenous people⁶¹. However, the law – despite the fact that, according to the clear testimony of historical sources, Hungarians have been living in today's Transcarpathia since the end of the 9th century, for 1100 years – does not classify Hungarians as indigenous peoples of Ukraine.

During the reporting period, no legislation regarding the protection of national minorities was adopted by the state authorities of Ukraine. At the same time, a number of legislation and measures were enacted that terminated, revoked, or restricted the rights of national minorities. In the majority of cases, national minorities were not consulted at all. In the case where such consultations took place, for example in relation to Article 7 of the Law on Education, decisions contrary to those accepted at the consultation were made.

Article 5

1. The Parties undertake to support the preservation and development of the culture for persons belonging to national minorities, as well as the conditions for the preservation of their identity, namely their religion, language, traditions and cultural heritage.

2. Without prejudice to the measures taken in the framework of the general policy governing integration, the Parties refrain from any policy or practice which aims the assimilation against their will of persons belonging to national minorities and

⁶¹ Закон України «Про корінні народи України». <https://zakon.rada.gov.ua/laws/show/1616-20#Text>

protect these persons from any action which aims their assimilation.

Language socialization is going on in language, in one or more specific languages. In the process of socialization this language or these languages become an integral part of an individual's identity. Exactly because of this language rights protect languages since language is of key significance in unfolding a personality, in constructing and experiencing individual and collective identity. Therefore, preserving a minority language is of paramount importance also from the point of view of human rights.

Following the Revolution of Dignity (2014) in Ukraine the desire to create a homogeneous nation-state has been frequently formulated. However, multi-ethnic Ukraine can become a homogeneous nation-state only in case of forced assimilation of national minorities living on its territory. The Laws On education (2017), Law on the State Language (2019), the repeal the 2012 Language Law indicate that the government is committed to shrink the rights of national minorities. Therefore, it means that the Ukrainian government is continuing a policy of assimilation. However, this is contrary to the intentions and spirit of the Framework Convention.

Education in the mother tongue is a particularly important factor in the efforts of Ukrainian Hungarians in retaining their language. This is confirmed by specific data.

During the first and so far the only census in the history of independent Ukraine, conducted in 2001, the informants were also asked about their nationality and mother tongue. Table 2 shows the correlation between the nationality and mother tongue indicators of 6 Ukrainian national minorities.

Table 2. Nationality and mother tongue indicators of 6 Ukrainian national minorities

	Nationality (number of people)	Their proportion within the country's population (%)	Their nationality and mother tongue are the same (%)	Do they have a mother tongue education system?
Hungarian	156 566	0,32	95,44	Yes
Romanian	150 989	0,31	91,74	Yes
Belarusian	275 763	0,57	19,79	Partially
Polish	144 130	0,30	12,95	Partially
Greek	91 548	0,19	6,37	No
Jewish	103 591	0,21	3,10	No

It is noticeable that among those Ukrainian minorities that have a complete network of mother-tongue medium educational institutions (from kindergarten to university) (such as Hungarians and Romanians), the degree of linguistic assimilation is low, since the proportion is high whose nationality and the mother tongue is the same. However, in the case of those minorities who can only study in their mother tongue at lower levels of education (such as Belarusians or Poles), many of them only retain the consciousness of their national origin, but already speak another language (Russian or Ukrainian) as their mother tongue. And for those minorities who do not have formal education in their own mother tongue at all, but only have the opportunity to learn their language as a subject at school, possibly in Sunday schools, the language exchange has practically already taken place.

So when Kyiv, based on Article 21 of the State Language Law⁶², Article 7 of the Law on Education⁶³ and Article 5 of the Law on General Secondary Education⁶⁴, narrows the extent and scope of mother-tongue medium education, reduces the chances and possibilities of survival of the minority group as a community and supports assimilation.

Roter and Busch⁶⁵ (p. 165) in their 2018 study examining language rights in the light of the activities of the Advisory Committee of the Framework Convention, state: „the exclusive nation-building (the so-called Ukrainisation) is very clearly aimed at promoting the Ukrainian language as the sole legitimate language in the public domain, at the expense of other languages, particularly Russian, but also other minority languages. Their use may have been affected as a ‘collateral damage’ of the process of Ukrainisation as anti-Russian policies, but it is not less painful for the speakers of those languages. This has been demonstrated in Ukraine’s new 2017 Law ‘On Education’ (Article 7), which abandons the current possibility to study all 11 years in a minority language, with Ukrainian being present only as separate subjects such as Ukrainian language, literature and history.”

⁶² 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#Text>

⁶³ Закон України «Про освіту» [Law of Ukraine "On Education"]. <https://zakon.rada.gov.ua/laws/show/2145-19#Text>

⁶⁴ Закон України «Про повну загальну середню освіту». [Law of Ukraine "On Complete General Secondary Education"] <https://zakon.rada.gov.ua/laws/show/463-20#Text>

⁶⁵ Roter, Petra and Busch, Brigitta: Language Rights in the Work of the Advisory Committee. In: *Language Policy and Conflict Prevention* (ed. Ulasiuk, Iryna; Hadircă, Laurențiu; Romans, William), 155–181. Leiden and Boston: Brill Nijhoff, 2018. (p. 165)

Article 6

1. The Parties shall encourage tolerance and intercultural dialogue and shall take effective measures to promote mutual respect, understanding and cooperation between all persons living in their territories, especially in the fields of education, culture and mass communication, regardless of ethnic, cultural, linguistic or religious identity.

2. The Parties undertake to take appropriate measures to protect persons who may be victims of discriminatory, hostile or violent threats and violent acts because of their ethnic, cultural, linguistic or religious identity.

Anti-Hungarian manifestations of the extremist Ukrainian nationalist organizations are a case of great concern.⁶⁶ Since the outbreak of the conflict in eastern Ukraine the anti-Hungarian outbursts in Transcarpathia have been growing in number; damages to minority-related monuments as well as settlement nameplates have become more common, in connection with which the authorities show inactivity.⁶⁷

These acts are dangerous and constitute a criminal offense under Article 161 of Criminal Code of Ukraine. These acts were aimed at inciting conflicts and hatred among ethnic groups, degradation of national pride and dignity, as well as intimidating ethnic Hungarians. In an undisguised, open form it was a repeated call for the physical destruction of the Hungarians. The authorities however, failed to take measures.

These events aimed to intimidate and break peace among nationalities and as such, violate laws of Ukraine and the

⁶⁶ Anti-Hungarian Action sin Ukraine (full video). <https://www.youtube.com/watch?v=WQYLW4cTsLM>

⁶⁷ Anti-Hungarian Acts in Ukraine. https://kmksz.com.ua/wp-content/uploads/2019/11/brossura_A5_ENG_NEW.pdf

obligations the country has undertaken under international conventions.

Since the perpetrators of these anti-Hungarian actions have not been prosecuted, this demonstrates that Ukraine's legal protection institutions are unable to enforce the law and to protect the rights and interests of its citizens belonging to national minorities.

Article 7

The Parties ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly and association with others, freedom of expression, freedom of thought, conscience and religion.

Policy advocacy, freedom of speech and freedom of expression can be realised only in a concrete language. The freedom of speech and freedom of expression are parts of human rights, thus exercising these rights in a language / languages which has / have been chosen is also a human right.

The national minorities in Ukraine are not given the opportunity to participate in political expression in their mother tongue. The Article 19 of the Law of Ukraine “On Supporting the Functioning of the Ukrainian Language as the State Language”⁶⁸ during the presidential elections, elections of Members of Parliament and local self-government do not make it possible for the ballots to be available in the language of national minorities. This limits the rights of national minorities in the exercise of freedom of expression. According to State Language Law, the use

⁶⁸ 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#Text>

of the languages of national minorities in the elections campaigns is governed by a law which does not exist today (in January 2022).

Article 8

The Parties undertake to recognize the right of all persons belonging to a national minority to express their religion or belief, as well as to found religious institutions, organizations and associations.

Recommendation of the Advisory Board regarding the fourth country report of Ukraine:

The Advisory Board reiterates its call on state authorities to increase their efforts to return religious properties to affected communities, especially those that are important in strengthening the religious and cultural identity of ethnic minorities. (paragraph 102)

In Transcarpathia, the Roman Catholic, Greek Catholic and Reformed churches with tens of thousands of Hungarian believers had properties that were confiscated after the Second World War. The state did not return most of them, and the churches did not receive any compensation.

No action was taken on this issue during the reporting period.

Article 9

1. The Parties undertake to recognize that the freedom of expression of every person belonging to a national minority includes the freedom to form an opinion and the freedom to learn and communicate information and ideas in the language of the minority, regardless of state borders and without the intervention of an official body. The Parties will ensure, within the framework of their national legal system, that persons

belonging to national minorities are not discriminated in accessing mass communication tools.

2. Paragraph 1 does not prevent the Parties from tying the start of radio and television broadcasting or cinema business to a license (without discrimination and based on objective criteria).

Recommendation of the Advisory Board regarding the fourth country report of Ukraine:

“The Advisory Board has repeatedly called on the authorities to change the strict language quota requirements...” (paragraph 110)

3. The Parties shall not prevent persons belonging to national minorities from creating and using printed media. In the legal framework regulating radio and television broadcasts, the provisions of paragraph 1 will be ensured and taken into account as far as possible, in order to provide persons belonging to national minorities with the opportunity to create and use their own means of mass communication.

Recommendation of the Advisory Board regarding the fourth country report of Ukraine:

“The Advisory Board repeatedly calls on the authorities to recognize the crucial importance of printed media in minority languages in preserving the language of minorities in the public sphere, and to establish an acceptable procedure for supporting the publication of such products.” (paragraph 110)

4. The Parties shall take appropriate measures within the framework of their legal system in order to facilitate access to mass communication tools for persons belonging to national minorities, thereby promoting tolerance and creating opportunities for cultural diversity.

The law changing the regulation of the language of the electronic press⁶⁹ and the state language law significantly tightens language quotas for television and radio broadcasting. For example, the state language law increases the minimum proportion of content in the state language from 75% to 90% for broadcasters with national coverage, and to 60-80% for regional or local TV and radio companies. In addition, the law does not make an exception for private broadcasters, including the television station “Ungvár TV21”, which broadcasts part of its programs in Hungarian, and the radio station "Pulzus Rádió", so these quotas also apply to them. This limits the freedom of expression and contradicts Article 9, point 3 of the Framework Convention.

Article 25, Part 1 of the State Language Law stipulates that the language of the printed press is the state language. The law binds the publication of printed press products in other languages to discriminatory conditions. According to the law, a non-state language newspaper or magazine can only be printed if, at the same time, the entire content of the same volume is also published in the Ukrainian language. All versions of the newspaper must have the same title, their content, number of copies and printing method must match each other, their editions must have the same serial number and must be published on the same day.

Article 27, point 6 of the State Language Act also stipulates that online press products registered in Ukraine (e.g. news portals) must have a version in Ukrainian. The page edited in the state language must be the primary one (the Ukrainian language page must be on the main page). The content, size, and structure of the

⁶⁹ 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#Text>

page in Ukrainian cannot be smaller than the page in another language.

Article 25, part 5 and article 27, part 6, fourth paragraph of the law exempt from the provisions of the previous point those press products that are published in English, Crimean Tatar or a national minority language that is an official language in the EU are used. However, the law developed to support the state language still significantly affects the non-Ukrainian language press.

Article 10

1. The Parties undertake to recognize the free and unrestricted use of minority language by all persons belonging to a national minority, both in private and in public sphere, verbally and in written form as well.

2. In areas inhabited by persons belonging to national minorities, traditionally or in significant numbers, if there is a wish from the persons which also corresponds to a real need, the Parties shall make efforts to ensure conditions promoting the use of a minority language between these persons and the public administrative authorities, as far as possible.

3. The Parties undertake to ensure that every person belonging to a national minority has the right to be informed of the reasons for their arrest and of the nature and grounds of any charges brought against them, in a language they understand, as soon as possible, and to be able to defend themselves in that language – if necessary – with the help of a free interpreter.

According to Article 1, Point 1 of the State Language Law adopted in 2019, "Ukrainian is the only state language (official language) in Ukraine." This also means that no language other than Ukrainian can have the status of an official language in Ukraine, not even at the regional level. Based on the data of the most recent (2001) Ukrainian census, 80 percent of the population of the

Beregszász district were Hungarian speakers. Based on the cited law, the Hungarian language cannot be used as an official language in addition to the state language, not even in the territory of this district.

Article 1, point 7 of the same law mandates the use of the state language "when performing the duties of state authorities and local self-government bodies, as well as in other public situations determined by this law." The law thus makes practically impossible for regional or minority language to appear and be used in the work of state and local government bodies.

Articles 12 and 13 of the law stipulate that the working language of state bodies, local and regional authorities is the state language. Article 12, point 2, allows the use of other languages in principle, in meetings of state bodies and regional and local authorities. However, in such cases, the law requires that everything that was not spoken in the state language must be translated into Ukrainian. However, this makes it practically impossible for local governments to hold meetings in regional or minority languages.

Article 13, point 3 of the State Language Law stipulates that regional or local authorities publish their resolutions and documents in the state language.

Meanwhile, during the ratification of the Charter, e.g. in Article 10, Ukraine undertook to allow "the use of regional or minority languages in regional or local administration"; to encourage "regional bodies to publish their official documents in regional or minority languages" etc. The state language law therefore clearly contradicts Ukraine's international commitments.

Article 37 of the State Language Law stipulates that political parties and social organizations to keep their documents in the state language and conduct their correspondence in the state language.

According to Article 29 of the Criminal Code of Ukraine ⁷⁰, all persons who do not speak or do not know the state language at an adequate level may testify in their mother tongue or in the language they know. However, Article 6, Point 1 of the State Language Law adopted in 2019 requires all citizens of Ukraine to know Ukrainian. With reference to this, Ukraine can refuse to use regional or minority languages during court or legal proceedings (because if knowledge of the Ukrainian language is a legal obligation, then not knowing it is against the law).

After the adoption of the State Language Law, due to the request of the Prosecutor's Office, all those local self-government bodies that recognized a minority language as regional in their own area revoked their decisions.

The legislative changes that occurred during the reporting period do not allow the implementation of Article 10 of the Framework Convention in Ukraine.

Article 11

- 1. The Parties undertake to recognize the right of every person belonging to a national minority to use their surname and first name in their minority language, as well as the right to official recognition of this, in accordance with the provisions of their legal system.**
- 2. The Parties undertake to recognize the right of every person belonging to a national minority to publish signboards, inscriptions and other private information in their own minority language.**
- 3. In areas that have traditionally been inhabited by persons belonging to national minorities in significant numbers, the**

⁷⁰ Кримінальний процесуальний кодекс України. <https://zakon.rada.gov.ua/laws/show/4651-17>

Parties shall endeavor to ensure that, within the framework of their legal systems, (where appropriate, agreements with other States and taking into account their specific circumstances) traditional place names, street names and other, geographical indications intended for the community are also displayed in the language of the minority, if there is a sufficient demand for such indications.

Recommendation of the Advisory Board regarding the fourth country report of Ukraine:

“The Advisory Board requests the authorities to take more active measures in order to implement the obligations contained in Article 11, Paragraph 3 of the Framework Convention in the case of all municipalities in which persons belonging to national minorities are present in significant numbers.”

Article 39, Part 3 of the State Language Law specifies that the nameplates, official documents, seals and stamps of state authorities, local government bodies, companies and institutions are made in the state language. Point 4 of the same article allows these designations and inscriptions to appear in English in addition to the state language. In theory, the law also allows nameplates, official documents, seals and stamps of self-governing bodies, companies and institutions to appear in the Crimean Tatar language as well as in the languages of national minorities, in addition to the state language.

However, the second paragraph of Article 39, point 4 of the law states that the use of minority languages in this area is ensured by a separate law. However, the law regulating the rights of indigenous peoples and national minorities does not yet exist in February 2023. In practice, this means that it is currently (February 2022) illegal to use the languages of national minorities on the nameplates, seals and stamps of self-governing bodies, companies and institutions in Ukraine.

Transcarpathia has historical traditions of multilingual institution nameplates, seals, stamps and official documents. However, these bilingual signs were gradually replaced by monolingual signs in several settlements. In the photos below, for example, in the villages of Mezőgecse and Macsola (Ukrainian: Геча, Мочола) in the Beregszász District, it can be seen that the Ukrainian-Hungarian bilingual signs in 2020 were replaced by Ukrainian monolingual signs in 2021. Based on the data of the most recent (2001) Ukrainian census, the proportion of Hungarian native speakers was 88.6% in the former settlement, and 80.2% in the later.

2020 – Ukrainian and Hungarian



2021 – only in Ukrainian



The photos below show that the Ukrainian-German and Ukrainian-Romanian signs are also gradually being replaced by Ukrainian ones. The photos were taken in in 2016 and 2021, in the settlement called Павшино in Ukrainian, Pausching in German, and Strâmtura in Romanian, Глибокий Потик in Ukrainian. Based on the data of the latest (2001) census, 34.3% of the inhabitants of Pausching (Павшино) had German as their mother tongue; In the village of Strâmtura (Глибокий Потик), the proportion of native Romanian speakers was 98.4%.

2016 – Ukrainian and German

2021 – only in Ukrainian



2016 – Ukrainian and Romanian

2021 – only in Ukrainian



Article 41, point 1 of the State Language Law stipulates that in Ukraine, geographical names, as well as names of squares, avenues, streets, other designations of public land, bridges, etc. should be in Ukrainian. However, this is incompatible with Ukraine's international commitments: see Article 10, Part 2.g of the Charter and Article 11, Paragraph 3 of the Framework Convention.

Clause 2 of Article 41 of the Law on the State Language stipulates that geographical names are transcribed (transliterated) from Ukrainian into other languages. This means, for example, that in the Hungarian-language textbooks used in schools in Ukraine, the name of the city of *Kuïb* cannot be used according to the centuries-old traditions of the Hungarian language (*Kijev*), the *Kyiv* version should be used instead, even in the Hungarian text.

Article 41, point 4 of the State Language Law stipulates that the inscriptions on the signs containing geographical names (for example, on the name plates of settlements or signs showing street names) must be in Ukrainian. The geographical name can also be displayed in a Latin transcription below the inscription in Ukrainian, or to the right (with a smaller font size). This provision excludes the traditional use of geographical names (names of towns, villages, names of streets, squares, names of rivers or mountains, etc.) in the languages of national minorities.

This provision of the law means that, according to the law, the hundreds of years old Hungarian names of Ungvár, Beregszász, Munkács, Nagyszőlős (Ukrainian: Ужгород, Берегово, Мукачеве, Виноградів) can only appear on nameplates in this form: Uzhhorod, Berehove, Mukacheve, Vynohradiv. This is a significant step back compared to previous and current practice, as today (in January 2022) the nameplates of nearly a hundred settlements include the traditional Hungarian name of the settlement in addition to the inscription in Ukrainian. In addition to Ukrainian-Hungarian place name plates, Ukrainian-Romanian and Ukrainian-German place name plates are also traditionally used in Transcarpathia (see the photos below).

Ukrainian–Romanian



Ukrainian–Hungarian



Ukrainian–German



However, in many settlements, the state authorities have already started replacing the previous bilingual place name signs with monolingual ones. According to the official data of the 2001 census, 98.2% of the residents in Badaló (Ukrainian: Бадалово) and 97.7% in Nagydobrony (Ukrainian: Велика Добронь) were Hungarian native speakers. At the border of both villages, a bilingual place name sign indicated that Hungarians also live in the village. However, during the year 2021, the Ukrainian-Hungarian bilingual street name plates were replaced with Ukrainian monolingual ones, as can be seen in the photos below. A similar exchange was carried out in several other settlements.



In some settlements, even the previous bilingual street name signs have been replaced with Ukrainian monolingual inscriptions. An example of this is the village of Som (Ukrainian: Іллом) in the Beregszász district.

It can be concluded that during the reporting period, legal uncertainty related to the implementation of parts 1 and 2 of Article 12 of the Framework Convention still exists. The realization of the 3rd part is now problematic.

Article 12

1. The Parties, if necessary, take measures in the field of education and research to promote knowledge of the culture, history, language and religion of their national minorities as well as of the majority.

2. In this context, the Parties will create adequate opportunities for teacher training and access to textbooks and facilitate relations between teachers and students from different communities.

3. The Parties undertake to promote equal access to education at all levels, for persons belonging to national minorities.

The history of national minorities is not included as a subject in schools of Ukraine. The history of the Hungarian people is not even included in the curriculum of schools with Hungarian language of instruction. Members of the Hungarian national minority can only study the history of their nation as part of an optional subject. However, in schools with Ukrainian language of instruction, the rising generations do not receive any knowledge about the history and culture of the national minorities living with them.

In the curriculum of schools with Hungarian language of instruction, it is also not possible for children to learn about Hungarian national culture in music and art classes, only in the

framework of optional subjects. The central curricula do not contain information about the language, literature, history and culture of national minorities.

The supply of textbooks of schools with Hungarian language of instruction is a problem every year. One of the biggest problems is that not all the textbooks are translated into Hungarian.

The practice of translating textbooks into Hungarian also raises problems. Several textbooks are prepared for each subject in the Ukrainian language. However, the ones that are translated into Hungarian (if it is made by a translation at all) are not chosen by the schools. The decision is arbitrary and unclear. That is why it happens that for the subject of Biology, a part of one textbook series is translated for the 5th grade, but for the 6th grade a volume of another textbook series is translated. This makes the work of both teachers and children more difficult.

The linguistic and professional quality of textbook translations is often uneven and poor. It would be necessary to involve the representatives of Transcarpathian Hungarians in the professional and linguistic supervision of the translations: the Transcarpathian Hungarian Teachers' Association, the Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education and the Ukrainian-Hungarian Educational and Scientific Institute of the Ungvár National University.

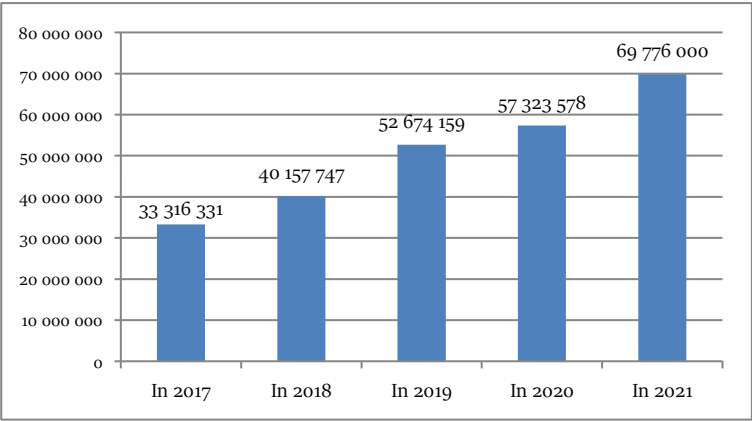
Despite the fact that in the 2020/2021 academic year there were a hundred schools in Ukraine where the language of instruction was Hungarian (see the figure below), the Ukrainian state does not train teachers who can teach in Hungarian in these schools. The only exception is the Hungarian language and literature, history and physics teacher training at the Ungvár National University.

In the 2020/21 school year, there were 874 schools in Ukraine where the language of instruction was a minority or regional language: 203 with one language, 670 with two languages and 1 with three languages.



The Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education is a non-state institution which trains teachers in several fields (kindergarten teacher, elementary school teacher, history, geography, biology, chemistry, mathematics, as well as Hungarian, English, Ukrainian language and literature teacher). Every year, the Ukrainian state budget receives an increasing amount of income from taxes paid by Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education (see figure below). During the year 2021, for example, the institution paid taxes to the Ukrainian budget in the amount of 69 million 776 thousand Ukrainian hryvnias, which corresponds to 2 million 247 thousand 701 euros according to the average exchange rate of January 2022.

Figure 1. The II. Amount of various taxes paid by Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education between 2017 and 2021 (UAH)



Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education operates in accordance with Ukrainian laws, its courses are accredited by the Ukrainian state authorities. However, the institution does not receive any support from the state budget.

Moreover, the Security Service of Ukraine (Служба Безпеки України, СБУ) intervenes in the operation of the institution.

In November 2020, the armed forces of the Security Service of Ukraine conducted a perquisition in the building of the Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education, where the offices of the foundation based in the institution were rummaged. The president of the foundation was accused of treason.

In 2020, the Security Service of Ukraine unlawfully intervened in the accreditation process of one of the Master's programs of the Ferenc Rákóczi II Transcarpathian Hungarian College of Higher Education. The Security Service of Ukraine addressed an official letter to the National Agency for Higher Education Quality Assurance of Ukraine (NAQA for short) and made various unfounded accusations against the institution and its head at the time.⁷¹

The Security Service of Ukraine intervened in the accreditation procedure of the elementary school teacher training course with illegal means. The training of elementary school teachers who can also teach in Hungarian is not carried out in any state institution in Ukraine. With this, the security service obstructed the accreditation of a program with unfounded accusations, which is crucial for the maintenance of Hungarian-language medium education.

Later (when the SBU no longer intervened in the process) the accreditation procedure ended with a positive result, because the College meets all professional criteria.

External independent testing for the subject "Ukrainian language and literature" was first introduced in Ukraine in 2008. At first, this exam was only mandatory for those who wanted to

⁷¹ "We want to live in the rule of law" – Ildikó Orosz sued the Security Service of Ukraine. <https://kmf.uz.ua/en/we-want-to-live-in-the-rule-of-law-ildiko-orosz-sued-the-security-service-of-ukraine/>

continue their studies in higher education, but later the government made this exam mandatory for all graduates.

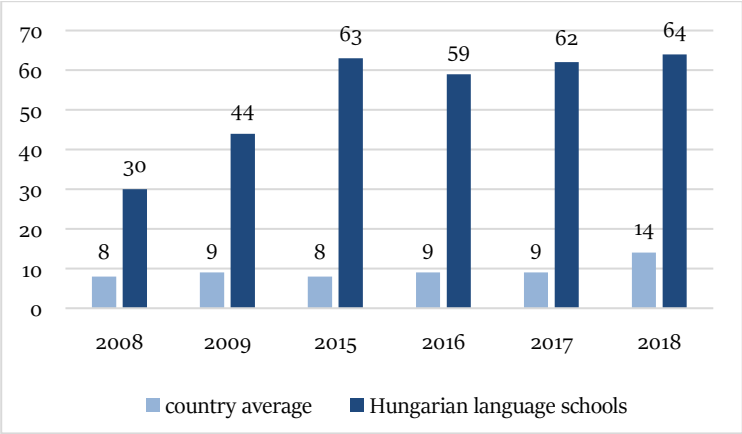
The same requirements were set for all participants in the mandatory exam: students who are Ukrainian native speakers and from schools with Ukrainian as a language of instruction, had to solve the same tasks as Hungarian-speaking youngsters who graduated from schools with Hungarian language of instruction.

They set the same requirements for everyone, despite the fact that the Ukrainian language and Ukrainian literature are taught in Hungarian-language medium schools based on different curricula and textbooks. This is discriminatory.

Discrimination is exacerbated by the fact that the "Ukrainian language" subject is taught in much fewer hours in Hungarian schools than in schools with Ukrainian as the language of instruction. The graduates who took part in the mandatory independent testing of Ukrainian language and literature in 2017 after attending a Hungarian-language medium school, studied the subject "Ukrainian language" for a total of 1,050 hours from the 1st to the 11th grade, based on the curriculum. During the same period, those taking exams after the Ukrainian school had a total of 1,627 hours of the same subject. Thus, those who came from the Hungarian-language medium school, were in a serious disadvantage (577 hours less). In spite of this, the same requirements were imposed on them as on those who graduated from the Ukrainian language school.

As a result of the obvious discrimination, among the students of the Hungarian-language medium schools, many students could not achieve the required minimum score in the mandatory Ukrainian language and literature exam (see the figure below).

Figure 2. Proportion of examinees who **did not** achieve the minimum score required for entering higher education in the Ukrainian language and literature independent test (%)



Since 2008 (that is, since the introduction of external independent testing), Transcarpathian Hungarian organizations have regularly drawn attention to the negative discrimination affecting Hungarians and other minorities. Despite this, it was only in 2019 when the Ukrainian government allowed a different minimum score limit to be established for students of Ukrainian-language medium schools and students of Hungarian-language medium schools.

The government issued Decree No. 952 on November 14, 2018⁷², in which classified those students studying at a school in a language other than the Slavic languages as with “special educational needs”, including Hungarians. On the basis of this

⁷² Постанова Кабінету Міністрів України «Про деякі категорії осіб з особливими освітніми потребами». http://search.ligazakon.ua/l_doc2.nsf/link1/KP180952.html?fbclid=IwAR1WoJ6aqOD4wN3oBIfkHtow-a2B9MUfQ4oKgGSHZMcmDVlBnVSb1u33SWc

government decree, during the assessment of the Ukrainian language and literature exam, a lower score limit was established for students studying in a school that does not teach in a language belonging to the Slavic languages. As a result, the proportion of students who passed the compulsory Ukrainian language and literature exam in all Hungarian-language medium schools increased significantly (see the table below).

Table 3. The proportion of graduates who did not achieve the minimum required score on the independent testing of Ukrainian language and literature in the Transcarpathian Hungarian schools in 2018 and 2019

Schools	2018	2019
János Bolyai Secondary School of Aknaszlatina	57,14	0,00
Barkaszó Secondary School	66,67	22,22
Bátyu Secondary School	73,33	35,29
Lajos Kossuth Secondary School №4 of Beregszász	65,63	14,81
Secondary School №3 of Beregszász	73,81	47,06
Secondary School №10 of Beregszász	58,33	28,57
Gábor Bethlen Hungarian High School of Beregszász	35,00	0,00
Secondary School №2 of Csap	51,85	18,75
Csoma Secondary School	90,91	87,50
Dercen Secondary School	83,33	25,00
Eszeny Secondary School	85,71	42,86
Feketeardó Secondary School	76,19	32,00
Gát Secondary School	91,67	36,36
Jánosi Secondary School	75,00	53,85
Agricultural Lyceum of Jánosi	84,09	19,51
Sándor Sztojka Lyceum of Karácspfalva	55,56	0,00
János Arany Lyceum of Kaszony	80,95	15,79
Kisdobrony Secondary School	76,47	5,88

Kisgejőc Secondary School	58,33	17,65
Ferenc Rakoczi II Secondary School №3 of Munkács	36,36	0,00
St. Stephen Lyceum of Munkács	8,33	0,00
Muzsaly Secondary School	64,10	50,00
Nagybereg Secondary School	65,63	44,44
Nagybereg Reformed Lyceum	45,95	9,38
Nagydobrony Secondary School	55,56	17,39
Nagydobrony Reformed Lyceum	56,00	4,35
Nagypalád Secondary School	100,00	21,43
Zsigmond Perényi Secondary School of Nagyszőlős	42,86	0,00
Nevetlenfalu Secondary School	92,00	35,29
Péterfalva Secondary School	89,47	42,86
Salánk Secondary School	66,67	41,67
Sislóc Secondary School	62,50	33,33
Szürte Secondary School	57,14	20,00
Técső Reformed Lyceum	17,07	0,00
Secondary School №2 of Tiszaújlak	100,00	31,25
Tivadar Reformed Lyceum	25,00	0,00
Gábor Dayka Secondary School №10 of Ungvár	0,00	13,33
Ungvár Hungarian High School	5,88	0,00
Ferenc Rakoczi II Secondary School of Vári	92,86	15,38
Verbőc Secondary School	66,66	14,29
Ferenc Kölcsey Secondary School of Visk	71,43	31,25

Article 21, point 3 of the State Language Law adopted in 2019 stipulates that external independent testing in all subjects (except foreign languages) must be conducted in the state language. However, this creates an unequal and disadvantageous competitive situation for speakers of regional or minority languages. Pursuant to Section IX.1 of the law cited, the implementation of this provision is postponed by Ukraine until January 1, 2030. However, discrimination will still be discrimination in 2030.

Despite several requests, the state still does not allow the organization of external independent testing in Hungarian language and literature. This reduces the prestige of Hungarian as a minority language.

The fact that the external independent testing due in 2030 will be conducted exclusively in the Ukrainian language makes the teaching of these subjects in any other language than Ukrainian meaningless.

On February 24, 2022, Russia invaded Ukraine. Due to the war, the external independent testing was not organized in 2022. Instead, young people were admitted to universities based on the National Multitest. However, the tasks of the National Multitest were not translated into the minority languages.

Article 13

1. Within the framework of their education system, the Parties recognize the right of all persons belonging to a national minority to establish and run their own private educational and training institutions.

2. Exercising this right does not impose any financial obligations on the Parties.

The Supreme Council of Ukraine adopted the Law on Higher Education on July 1, 2014.⁷³ Article 48 of the law stipulated the language of instruction in higher education. According to point 1 of Article 48, the language of higher education is Ukrainian. Point 2 of Article 48 gave the right to institutions of higher education to teach one or more subjects in English or another foreign language in special groups created for this purpose, in addition to ensuring compulsory education of the state language. Point 3 of Article 48

⁷³ Закон України «Про вищу освіту». <https://zakon.rada.gov.ua/laws/show/1556-18/ed20140701>

allowed private higher education institutions to choose the language of education, with the compulsory provision of teaching the state language as a separate subject. Point 4 of Article 48 made it possible for the language of national minorities to be taught as a subject in higher education.

However, Article 7 of the Law on Education adopted in 2017 and Article 21 of the State Language Law regulate the use of languages in education in a different way. Therefore, on April 25, 2019, referring to the two aforementioned laws, the Kyiv Parliament changed Article 48 of the Law on Higher Education. Point 1 of Article 48 remained unchanged. According to the amended point 2 of Article 48, the language of education in higher education is regulated by the State Language Law and the Law on Education. Points 3 and 4, which were still included in the original wording of Article 48, were removed from the text of the law on higher education.

The change in the law on higher education means that Ukraine has abolished the right of private higher education institutions to choose the language of instruction. With this, *Ukraine banishes education in the languages of national minorities from higher education.*

Article 14

1. The Parties undertake to recognize the right of every person belonging to a national minority to learn their minority language.

2. In areas traditionally inhabited by national minorities in significant numbers, in case of appropriate demand, the Parties shall strive to ensure that persons belonging to national minorities have adequate opportunities to learn their minority language or to study in this language (according to

their possibilities and within the framework of their education system).

3. Paragraph 2 of this article must be implemented in such a way that it does not jeopardize the learning of the official language or teaching in this language.

Pursuant to Article 53 of the country's constitution, citizens of Ukraine have the right to “learn in their mother tongue or learn their mother tongue” in state and communal educational institutions. The Law on National Minorities (1992)⁷⁴ Article 6 is similar to the Constitution when it comes to the education of minorities. The same is repeated in paragraph 3 of Article 19 of the Law of Ukraine “On the Protection of Childhood”.⁷⁵ All of this, according to the practice that has developed since the independence of Ukraine, means that those Ukrainian citizens of Hungarian nationality who live in the parts of Transcarpathia where Hungarian-language medium schools operate, were able to choose whether: (a) to send their children to a school where the children can learn the subjects in their mother tongue; OR (b) choose a school for their children where they can study their mother tongue as a subject; OR (c) they do not use any of the options offered and send their children to a school where the children's mother tongue is not present at all in the educational process.

Based on Ukrainian jurisprudence, the word “or” in both Article 53 of the Constitution and the cited laws can be interpreted as meaning that the state guarantees both the right to study in the mother tongue and the right to study the mother tongue as a subject. According to the practice developed during the existence of the Soviet Union and operating even after the independence of

⁷⁴ Закон України «Про національні меншини в Україні» № 2494-XII (1992). <http://zakon2.rada.gov.ua/laws/show/2494-12>

⁷⁵ Закон України «Про охорону дитинства» № 2402-III (2001). <http://zakon2.rada.gov.ua/laws/show/2402-14>

Ukraine, the conjunction *or* in the legislation means: citizens can choose which option they want to use, according to their goals, needs, and possibilities.

This legal interpretation was also applied in Article 25 of the Language Law adopted in 1989 and in force until 2012.⁷⁶

The same legal interpretation is also supported by Article 20 of the Law of Ukraine on the Basics of State Language Policy, adopted in 2012 and still in force in the summer of 2017.⁷⁷

However, Article 7 of the new framework law on education adopted in 2017 interprets the word “*or*” in a different way, namely that the right to choose belongs to the state: the government decides which option offers to its citizens. According to Kyiv's interpretation, it is not the citizen, but the government that can decide whether the language of citizens belonging to national minorities is also present as a language of instruction in the education process, or only appears as a subject.

In connection with the Ukrainian country report prepared in 2012 on the application of the Framework Convention on the Protection of National Minorities in Ukraine, the Council of Europe criticized Kyiv for the education law in force until 2017, because it did not provide mother-tongue education in many villages where it would be possible, and reduced the the number of hours taught in a minority language.⁷⁸ However, it is clear that the new legislation further narrows the number of hours taught in minority languages,

⁷⁶ Закон України «Про мови в Українській РСР. <http://zakon3.rada.gov.ua/laws/show/8312-11>

⁷⁷ Закон України «Про засади державної мовної політики». <http://zakon2.rada.gov.ua/laws/show/5029-17>

⁷⁸ See pages 31–32. page, here also paragraphs 125 and 128. <https://rm.coe.int/1680o8c6co>. The CoE report and report issued in connection with the application of the Charter in Ukraine also argues similarly. See pages 1303-1305 on page 141. paragraph here: <https://rm.coe.int/16806dc600>

as Article 7 allows that “one or a few subjects” can be taught in a language other than the state language.

The CoE document just cited also criticized the previous education law, adopted in 1991, because it was not clear from the text of the law, how many applications are needed to open a kindergarten group, class or school teaching in a minority language.⁷⁹

In January 2014, CoE stated in its report and recommendations on the use of the Charter in Ukraine that if there is a need for mother-tongue medium education among minorities in the country, then the state cannot choose to provide education only in the state language. Among the recommendations is that the state should “guarantee the right of minority language speakers to be educated in their own language, while preserving the achievements already achieved”.⁸⁰

In the CoE Resolution No. 1985 (2014) entitled "The Situation and Rights of National Minorities in Europe" (point 10.4.3), the Parliamentary Assembly calls on the member states of the Council of Europe to “*take the necessary steps to ensure the continuity of education in the mother tongue in secondary education (including vocational training) and higher education*”.⁸¹ Ukraine is also a member of the CoE.

Point 13 of the resolution adopted by the Parliamentary Assembly of the Council of Europe with the number 2145 (2017) entitled “The functioning of democratic institutions in Ukraine”

⁷⁹ See paragraph 22 on page 8, paragraph 124 on page 31 and paragraph 127 on page 32. <https://rm.coe.int/168008c6co>. The same criticism was raised by analysts in relation to Article 20 of the 2012 Language Law, which regulates the language of education (Tóth-Csernicskó 2013: 69–79, 2014: 67–75). The CoE also criticized Kyiv for this in the Charter’s Ukraine country report: see page 20 here: <https://rm.coe.int/16806dc600>.

⁸⁰ See page 19, paragraph 107 here: <https://rm.coe.int/16806dc600>

⁸¹ [http://w1.c1.rada.gov.ua/pls/mpz/docs/1926_rez_1985_\(2014\).htm](http://w1.c1.rada.gov.ua/pls/mpz/docs/1926_rez_1985_(2014).htm)

emphasizes: “The Assembly expresses concern that some draft laws aim to restrict the current rights of national minorities. It is extremely important that, according to the amended legislation, national minorities can preserve their rights to use the minority language guaranteed in the Constitution and in all the country's international commitments. We emphasize the continuation of the inclusive policy regarding minority languages for the sake of the country's stability.”⁸²

Despite all these proposals, comments and recommendations, in the period covering the 5th Report, a series of laws came into force in Ukraine that significantly limit the right of ethnic minorities to receive education in their mother tongue and to learn their mother tongue.

Article 15

The Parties undertake to create the conditions necessary for persons belonging to national minorities in order to enable their participation in cultural, social and economic life, as well as in public affairs – especially those that concern them.

The Advisory Board reiterates its call to the authorities of Ukraine to amend its electoral legislation in order to provide a legal basis and effective mechanisms for the representation of persons belonging to national minorities at all levels of representative bodies. (paragraph 171)

The fourth country report submitted by Ukraine in 2016⁸³ and the period between the last, fifth country report, several legislative

⁸² <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23453&lang=en>

⁸³ Fourth Report submitted by Ukraine pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680657b74>

steps were taken in Ukraine that directly affect the rights of national minorities and hinder their effective participation in public affairs.

Such was the case with the acceptance of the law on public service (2015)⁸⁴, the law changing the regulation of the language of the electronic press (2017)⁸⁵, the new education framework law (2017)⁸⁶, the law on the support of the state language (2019)⁸⁷, and the law on complete general secondary education (2020)⁸⁸ and the amendment of the law on higher education (2014)⁸⁹. The annulment⁹⁰ of the Law of Ukraine "On the foundations of the state

⁸⁴ Закон України «Про державну службу» [Law of Ukraine "On Civil Service"]. <https://zakon.rada.gov.ua/laws/show/889-19#Text>

⁸⁵ 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#Text>

⁸⁶ Закон України «Про освіту» [Law of Ukraine "On Education"]. <https://zakon.rada.gov.ua/laws/show/2145-19#Text>

⁸⁷ 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#Text>

⁸⁸ Закон України «Про повну загальну середню освіту». [Law of Ukraine "On Complete General Secondary Education"] <https://zakon.rada.gov.ua/laws/show/463-20#Text>

⁸⁹ Закон України «Про вищу освіту» [Law of Ukraine "On Higher Education"]. <https://zakon.rada.gov.ua/laws/show/1556-18/ed20140701#Text>

⁹⁰ 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» від 28. 02. 2018 р. № 2-п/2018. [Decision of the Constitutional Court of Ukraine in the case of the constitutional petition of the 57 People's Deputies of Ukraine on compliance with the Constitution of Ukraine (constitutionality) of the Law of Ukraine "On Principles of the State Language Policy" of February 28, 2018, No. 2-p/2018.] <https://zakon.rada.gov.ua/laws/show/v002p710-18#Text>

language policy”⁹¹ (2012) also significantly reduced the rights to use the languages of national minorities.

However, the Ukrainian government did not consult with representatives of national minorities before taking any legislative steps. Despite the fact that the Committee of Ministers of the Council of Europe called on Kyiv to do so in its resolution issued on December 8, 2020, the Ukrainian government did not hold consultations with representatives of national minorities.⁹²

The Ukrainian authorities do nothing in order to ban the website «Миротворець»⁹³, which is abusing the personal data of representatives of local governments or those who work in state offices, that are also Ukrainian-Hungarian dual citizens of Hungarian nationality, stigmatizing them as enemies of Ukraine.

The draft law that was submitted to the Kyiv parliament in 2021 to regulate dual citizenship is also capable of discriminating against dual citizens and excluding them from public affairs. Based on the drafts, persons who are citizens of other states besides Ukraine cannot be heads of any state or municipal educational institution (not even a kindergarten or nursery school); they cannot be employees of armed bodies, law enforcement agencies, notaries, etc.; they cannot be employees of any state or local government body or institution; they cannot hold any elected office (for example, they cannot be mayors or representatives of local governments); they cannot be members of a political party, nor can

⁹¹ Закон України «Про засади державної мовної політики». <https://zakon.rada.gov.ua/laws/show/5029-17#Text>

⁹² Resolution CM/ResCMN(2020)13 on the implementation of the Framework Convention for the Protection of National Minorities by Ukraine. (Adopted by the Committee of Ministers on 8 December 2020 at the 1391st meeting of the Ministers' Deputies). https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a07742

⁹³ <https://myrotvorets.center/>

they engage in campaign activities during elections or referendums.⁹⁴

If such a regulation were to be adopted, Ukraine would violate Articles 2 and 25 of the UN International Covenant on Civil and Political Rights, as well as Article 14 of the Council of Europe Convention on the Protection of Human Rights and Fundamental Freedoms, as well as the 12th Protocol attached, including the basic human rights prohibiting discrimination, and regarding unrestricted participation in public affairs.

Citizens belonging to national minorities are also disadvantaged by the fact that Articles 9 and 10 of the State Language Law stipulate that certain positions can only be filled if the person applying for them takes a specific type of language exam, which determines the level of their Ukrainian language proficiency. This means that Ukraine ties many positions to knowledge of the state language.

It is interesting that the state language law does not require Ukrainian parliamentarians to prove their level of Ukrainian language proficiency with a certificate, but for example, heads of private kindergartens or private schools must prove their Ukrainian language proficiency with a mandatory language exam.

The state language law does not specify what level of language proficiency is expected from, e.g. the directors of private kindergartens or schools in villages with Hungarian language of instruction. However, in its resolution issued on June 24, 2021, number 31, the state office called National Commission on State Language Standards stipulated that the heads of educational institutions (regardless of the form of ownership of the institution and the language of instruction, or level) must have C1, i.e.

⁹⁴ Аналіз законопроектів про громадянство, внесених до Верховної Ради Президентом України 2 грудня 2021 року. http://politic.karpat.in.ua/?p=35779&set_lang=uk&lang=uk

advanced level of language skills, and they can obtain the document certifying their language skills by passing an exam at the state office.⁹⁵

This means that although the Ukrainian state does not provide any financial support to private educational institutions and, based on the new education laws, significantly reduces the teaching of minority languages in state and municipal schools, even the heads of private kindergartens and schools in small villages are expected to take a language exam certifying their knowledge of the Ukrainian language at an advanced, C1 level. Educational institutions whose directors do not obtain this language test will not receive an operating license. This procedure is discriminatory against the leaders of educational institutions founded by national minority organizations or churches.

Article 16

The Parties shall refrain from taking measures that change the proportions in areas inhabited by persons belonging to national minorities and are aimed at limiting the rights and freedoms that derive from the principles contained in this Framework Convention.

In 2015, the Supreme Council of Ukraine adopted the Law on Voluntary Unification of Local Governments⁹⁶, which marked the beginning of the Ukrainian public administration or decentralization reform. As a result of the reform, local city and village governments had to organize themselves into united territorial communities (Ukrainian: об'єднання територіальних громад, abbreviated: ОТГ). On July 17, 2020, the Supreme Council

⁹⁵ Про затвердження класифікації рівнів володіння державною мовою та вимог до них. http://search.ligazakon.ua/l_doc2.nsf/link1/RE36546.html

⁹⁶ Закон України «Про добровільне об'єднання територіальних громад». <https://zakon.rada.gov.ua/laws/show/157-19#Text>

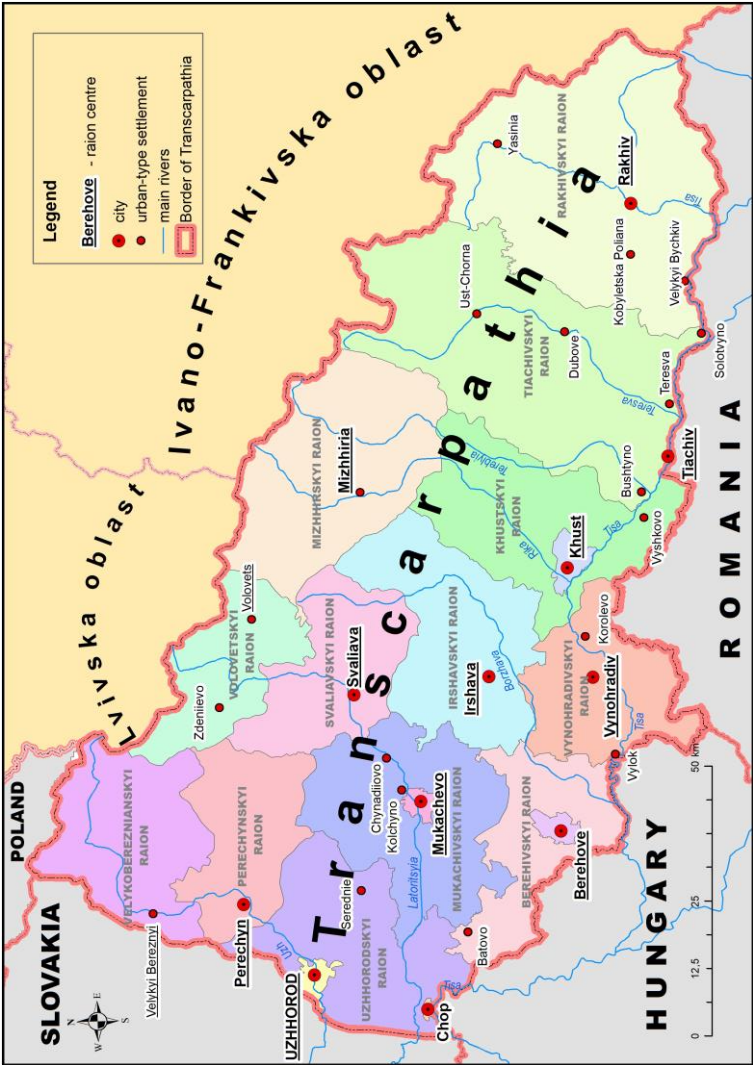
issued its resolution *On the establishment and termination of districts*⁹⁷, which concluded the legal regulation of the decentralization process: 490 districts of Ukraine were abolished, and 136 new districts were created instead⁹⁸.

In Transcarpathia, as a result of decentralization, 6 districts (Ungvár, Munkács, Beregszász, Huszt, Técső and Rahó districts) were created instead of the previous 13 districts. In the region, the former 337 local governments were organized into 64 micro-regions.

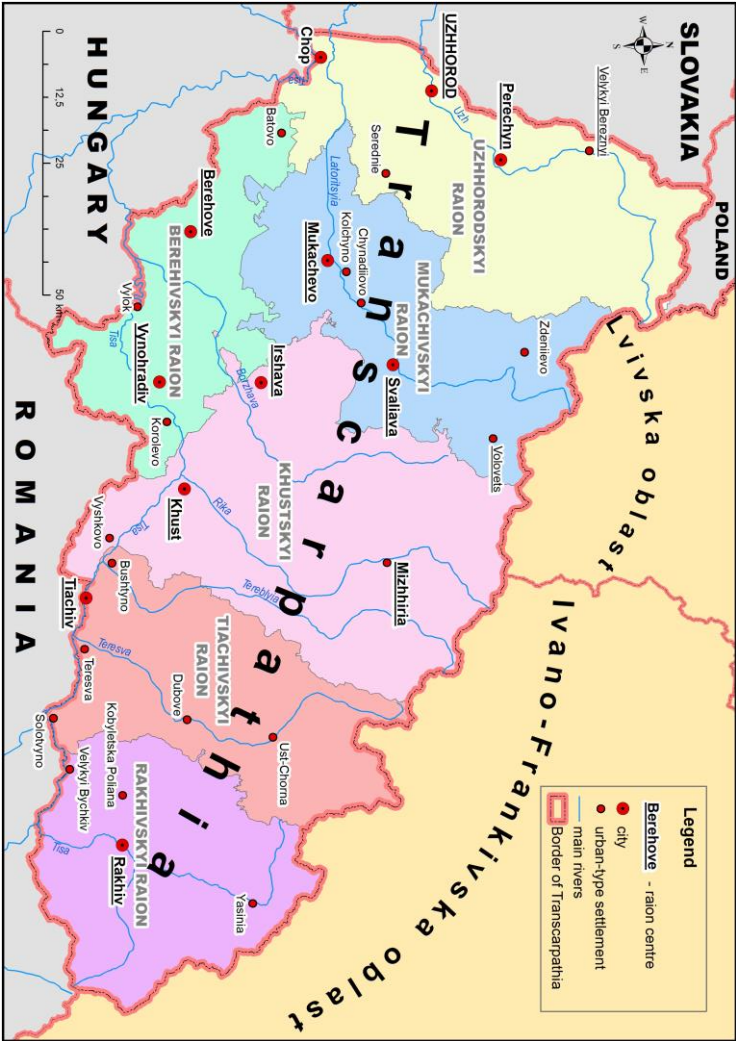
⁹⁷ Постанова Верховної Ради України «Про утворення та ліквідацію районів». <https://zakon.rada.gov.ua/laws/show/807-20#Text>

⁹⁸ see: <https://decentralization.gov.ua/>

Map 1. The administrative division of Transcarpathia before decentralization



Map 2. The administrative division of Transcarpathia after decentralization

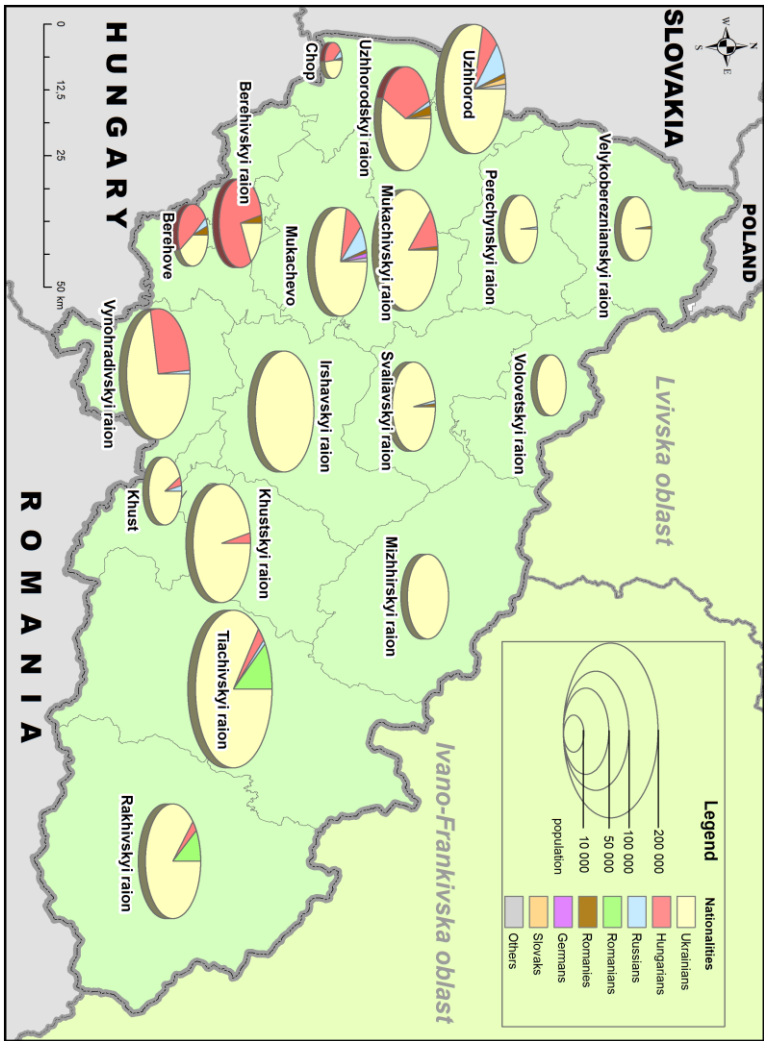


Before the decentralization reform, among the 13 districts of Transcarpathia, the Beregszász district was the administrative unit with an absolute Hungarian majority (Map 3.).

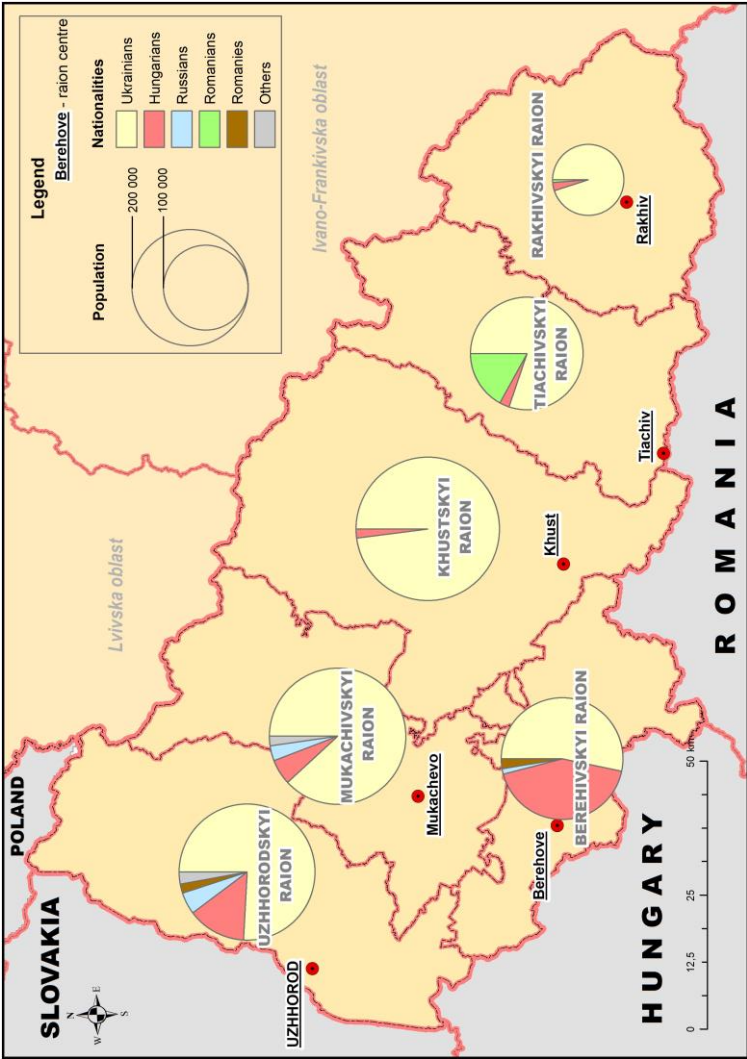
However, none of the six districts created after decentralization has an absolute Hungarian majority (Map 4.).

Before decentralization, there were 52 local governments (village councils) in Transcarpathia where Hungarians were in the absolute majority. After the administrative reform, only 10 micro-regions were created where Hungarians are in the absolute majority (Map 5.).

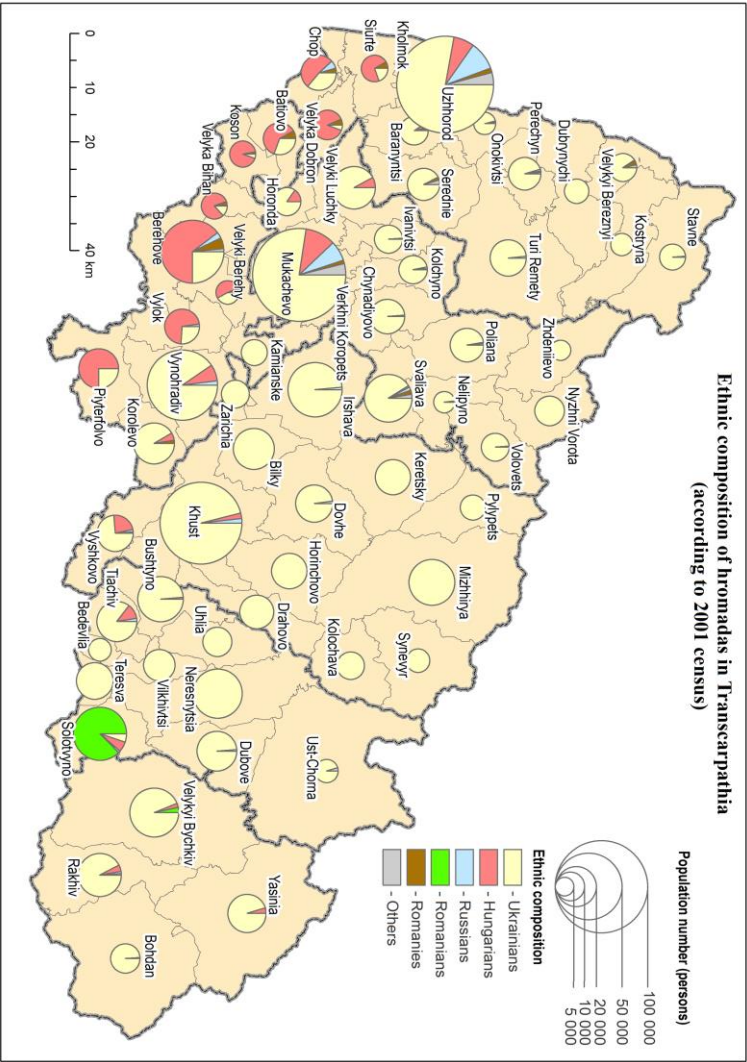
Map 3. Nationality distribution of Transcarpathia in 2001



Map 4. The ethnic distribution of Transcarpathia in the new districts created as a result of decentralization



Map 5. Nationality distribution of the sub-regions created by decentralization



All this clearly shows that the administrative reform called decentralization has changed the ethnic proportions of the area inhabited by persons belonging to national minorities.

According to the Resolution 1985 (2014) of the Parliamentary Assembly of the Council of Europe „Best practice in territorial arrangements might play an important role for the effective protection of the rights of national minorities.”

In this regard, the Assembly recalls its Resolution 1334 (2003) on positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe, which states that the establishment and operation of an autonomous entity can be regarded as part of the democratisation process. The Assembly also welcomes the adoption of Resolution 361 (2013) on regions and territories with special status in Europe by the Congress of Local and Regional Authorities of the Council of Europe, which acknowledges that the special status enjoyed by regions of some European States has brought stability and prosperity to those regions and States.

Resolution 1985 (2014) of the Parliamentary Assembly of the Council of Europe calls on the Council of Europe member states to “10.3.1. create territorial self-government solutions in a form approved by all the parties involved, while respecting the general principles of international law”. Likewise: “10.3.2. regardless of economic reasons, they shall take into account the additional value of the historic regions with regard to culture, language, traditions and religions when defining/reforming the administrative and / or territorial structures / units of the country or of the concerned state institutions”. In the process of decentralization in Ukraine it would be possible to develop such an administrative unit in Transcarpathia, which supported the survival of the Hungarian minority, its identity and could contribute to the preservation of the minority language and culture.

Article 17

- 1. The Parties undertake not to hinder persons belonging to national minorities from exercising their right to freely and peacefully establish and maintain cross-border relations with persons legally residing in other states, especially with persons with whom they share ethnic, cultural, linguistic and share a religious identity or a common cultural heritage.**
- 2. The Parties undertake not to prevent persons belonging to national minorities from exercising their right to participate in the activities of national and international non-governmental organizations.**

Transcarpathia borders four member states of the European Union: Poland, Slovakia, Hungary and Romania. The number of international border crossing stations, their capacity, infrastructural equipment, as well as the inadequate work of the customs and border security agencies, and the condition of the roads leading to the borders make significantly more difficult to maintain contact with neighbouring states, to maintain cultural relations and to stimulate commercial and tourist traffic.

During the reporting period, despite the funds received from the European Union, the Ukrainian authorities did not open new border crossing stations on the Ukrainian-Hungarian border section, nor did they renew or expand the existing ones.

Article 18

- 1. The Parties endeavour to conclude bilateral and multilateral agreements with other States, especially neighbouring States, in order to ensure the protection of the persons belonging to the national minorities concerned, if necessary.**
- 2. Where appropriate, the Parties shall take appropriate measures to encourage cross-border cooperation.**

Recommendation of the Advisory Board regarding the fourth country report of Ukraine:

“The Advisory Board encourages state authorities, in the spirit of good neighborly and friendly relationship between countries, to implement bilateral agreements which respect multilateral standards and procedures.” (paragraph 186)

The joint declaration of the Republic of Hungary and the Ukrainian Soviet Socialist Republic on the protection of national minorities was signed in May 1991. This document and the Protocol attached to disposed of the creation of the Ukrainian-Hungarian intergovernmental joint commission dealing with the issues of national minorities. The fact that the last 14th meeting of this committee took place in 2011 testifies the difference of opinion between the two parties, which seems insurmountable under the current circumstances.

In spite of the international agreements between Ukraine and Hungary, in the last few years, Kyiv has been obstructing or making it difficult for the Hungarians living in Ukraine to receive the subventions offered by the Hungarian state.

Despite the fact that the organizations and foundations of the Transcarpathian Hungarian national minority renewed educational, cultural and health institutions worth millions of USD with the support of Hungary, the Security Service of Ukraine initiated proceedings against these organizations and foundations and their leaders, and several lead Hungarian politicians were banned from Ukraine.

The interstate relations between Hungary and Ukraine have significantly deteriorated due to the violations of rights suffered by the Transcarpathian Hungarian minority in recent years.

The Parties undertake to respect and implement the principles laid down in this Framework Convention, to which,

if necessary, they will only add restrictions, limitations or derogations which are provided for in international legal documents, in particular, those mentioned in the Convention on the Protection of Human Rights and Fundamental Freedoms and They are found in its Additional Protocols, insofar as they are relevant for the rights and freedoms derived from the aforementioned principles.

Article 22 of the Constitution of Ukraine states: "The human and civil rights and freedoms listed in this Constitution are not finite. Constitutional human rights and freedoms are guaranteed and irrevocable. In the case of the adoption of new laws or the amendment of existing laws, valid human rights and freedoms cannot be narrowed in terms of their content and scope."

Based on the legislative steps of the last few years, however, it is clear that Ukraine is gradually narrowing down, and in several cases abolishing, the minority rights previously guaranteed in its own national legislation and international commitments.

In the meantime, the Ukrainian political elite is undoubtedly committing a serious omission and an obvious violation of the law by not having enacted a new law regulating the rights and language use of national minorities until December 2022. Part IX (Final and Transitional Provisions) of the State Language Law (Section 8, paragraph 3) requires the Government of Ukraine to submit to the parliament a draft law on the enforcement of the rights of indigenous peoples and national minorities within 6 months after the law enters into force. The State Language Law entered into force on June 25, 2019. The government should have submitted the draft law on the rights of minorities to the parliament in January 2020. However, this did not take place until the end of February 2022.

Conclusion

The Hungarian national minority in Ukraine does not ask for extra rights. Our aspiration is to protect our previously acquired rights that have existed for many decades and to preserve our own language, identity and culture.

Based on the change of direction in Ukraine's nationality and language policy, we can conclude that Kyiv does not intend to comply with the European minority protection standards undertaken by ratifying the Framework Convention and the Charter during its accession to the Council of Europe. This change of direction can be noticed in all legislation related to this area of law, adopted in the 5th reporting period of the Framework Convention, and is worded explicitly in the 2021 Constitutional Court Resolution.

Based on our analysis above, we can conclude that in Ukraine after 2014 a legal basis was created that is opposed to the spirit of the Framework Convention with the consent of all branches of power and bodies (Parliament(s), President(s), Government(s), the Constitutional Court in several parliamentary cycles; all these actors have ignored the relevant comments and recommendations highlighted by national minorities and relevant international organizations.

In our point of view, in the current situation, Ukraine cannot fulfill, but unfortunately has no intention either to fulfill its obligations in the Framework Convention and many other international treaties regarding the protection of the rights of national and linguistic minorities. The Advisory Board and the Council of Europe, as a prestigious international organization responsible for the enforcement of human rights, should fine-tune their relationship with Ukraine by taking this unfortunate fact into account.

If European organizations, including the Council of Europe, do not take any action against the continuous and gradual shrinking and elimination of the rights of national minorities, then with their passivity they will be accomplice not only in the erosion of the rights of Ukrainian national minorities, but also in the entire international minority protection system.

And this can create a precedent, as a result of which a minority in Europe can be deprived from the rights previously acquired within a state at any time. In this case, the countries building homogeneous nation-states may be spurred by the example of Ukraine to take this path, which may result in new European conflicts.

