

# **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**



## Executive summary

This alternative report is submitted by Hungarian researchers and non-governmental organizations representing the Hungarian community living in Transcarpathia county (Закарпатська область) of Ukraine. The report is prepared with the cooperation of members of the Transcarpathian Hungarian Cultural Association, the Transcarpathian Association of Hungarian Pedagogues, the Democratic Alliance of Hungarians in Ukraine, the A. Hodinka Linguistic Research Centre, and the T. Lehoczky Research Centre. It focuses on issues of implementation of the Framework Convention for the Protection of National Minorities in Transcarpathia, and aims to complement the government's periodic report by shedding light on the perspective of the national minorities and the users of regional and minority languages and point out some problematic issues, which remain unsolved despite the ratification of the Framework Convention for the Protection of National Minorities.

The following comments address issues raised in the Ukrainian Government's report. They are structured according to the Articles of the Framework Convention. These comments are in no way comprehensive, and a lack of response to some of the Government's statements should not indicate their acceptance or endorsements. Simply for the sake of brevity we concentrated on questions that seemed to be the most important, or where the most relevant recent developments have taken place.

Ukraine, which became independent in 1991, is undergoing its most serious crisis. Besides the political and economic troubles it has to deal with a military conflict as well. In this tense situation our aims cannot be to sharpen the linguistic and ethnic conflicts, but to achieve consolidation and societal peace. We are convinced that preserving ethnic, cultural and linguistic diversity, the creation of mutual respect will bring us closer to peace. Respecting laws guaranteeing the rights of national minorities and use of regional and minority languages is a common interest of the state, the majority society and minority communities: compliance with laws is an important step towards the rule of law and a functional democracy. This was our main goal with preparing this alternative report.

Ukraine signed the Framework Convention for the Protection of National Minorities in 1998. Data of ratification: 26 January 1998.<sup>1</sup> Data of entry into force: 1 May 1998.

The text of the Framework Convention relating to ratification has been completed in the official Ukrainian-language translation and is available on the public official website of the Supreme Council of Ukraine.<sup>2</sup> The state has not made translation of the Framework Convention in other language.

Ukraine submitted its fourth cycle State Report on the implementation of the Framework Convention to Starsbourg on 30 May 2016. The text of the Report (either in English or Ukrainian or any other language) was not disclosed by the government (the English version is available on the Council of Europe's official website).<sup>3</sup> The Ministry of Culture of Ukraine is responsible for the preparation of the Report.

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<sup>1</sup> <http://zakon3.rada.gov.ua/laws/show/703/97-%D0%B2%D1%80>

<sup>2</sup> [http://zakon3.rada.gov.ua/laws/show/995\\_055](http://zakon3.rada.gov.ua/laws/show/995_055)

<sup>3</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680657b74>

Laws on the protection of national minorities and use of minority languages are contradictory. In addition, the Ukrainian state neglects its obligation to inform citizens and civil servants about the applicable laws. It is common that citizens and civil servants applying the law are unaware of their rights and obligations.

The central government does not consult representatives of the minority communities during the preparation of the administrative reform. It is hostile to proposals to create a Tisa district, put forward by representatives of the Hungarian community, even though such a district is in line with the administrative reform's general aim of decentralization.

The central government has ignored requests to introduce a subject on "the history of national minorities" in the curriculum. Since 2008 it has rejected the requests to allow high school students pass school leaving exams from the language and literature of their mother tongue.

The government has failed to improve the teaching of Ukrainian in schools with a regional or minority language as the language of instruction. This hinders the integration of students of these schools. In these circumstances, it is discriminatory to require everybody to pass an exam from Ukrainian language and literature as a condition for university admissions.

The state does not specify how many student and parent requests are needed for opening a new school or class teaching in a regional or minority language, which hinders the development of the minority language educational system.

Public administration bodies use regional and minority languages in a limited way. Our research shows that in the majority of bilingual municipalities it is possible to use regional and minority languages orally, but only on the local and district, not county level. In Transcarpathia county, neither the county council nor the county public administration bodies are willing to apply the Framework Convention or the Law of Ukraine "On Principles of State Language Policy".

Regional and minority languages are used rarely in writing before public administration bodies. Neither the central government, nor Transcarpathian county, district or local public administration bodies publish their resolutions in regional or minority languages. The state does not promote but rather impedes the use of regional and minority languages in the public sphere.

The use of regional and minority languages in public administration is also hindered by the fact that the vast majority of Ukrainian-speakers do not speak any regional or minority languages. In bilingual municipalities the sessions and discussions in public administration bodies are typically taking place in Ukrainian.

Geographical names in regional and minority languages are used practically only on signs displaying the names of municipalities. Other geographical names (railway stations, rivers), are written only in Ukrainian. Members of local self-governments explained that due to lack of funds they are unable to create bilingual street signs, forms, stamps, and other public signs. Improvement could be achieved if the central government provided funding for bilingualism.

The lack of bilingual signs is especially dangerous in the case of signs informing about danger and the labelling of pharmaceuticals and dangerous goods. According to the census, 6,5 million citizens of Ukraine do not speak the state language, and the absence of inscriptions in regional and minority languages endangers their life and health.

The political elite in power set itself the goal to repeal the Language Law adopted in 2012. Currently investigations into the Language Law are being carried out by the

Constitutional Court of Ukraine. Annulling the Language Law served as one of the main pretexts for the occupation of Crimea and outbreak of the eastern Ukrainian armed conflict threatening security in Europe and causing global economic slowdown. The repeal of the Language Law would significantly restrict the linguistic rights of national minorities and whatsmore, it could lead to further tensions in the country.

The adoption of the new Language Act could confine the education of national minorities in their language. In fact by Article 7 on the Language of Instruction the Ministry of Education and Science of Ukraine intends to discontinue education in the language of national minorities.

Yours sincerely,

Berehovo/Берегово/Beregszász, January 20, 2017.

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## Section II

### Article 4

1. Article 24 of the Constitution of Ukraine 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 state often interpret this section of the Constitution as one that forbids positive discrimination of national minorities.
2. 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, it should be noted that only the Constitution of Ukraine contains provisions on non-discrimination. Lower level legislation of civil and administrative law do 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.
3. With regard to Ukrainian government offices and institutions dealing with protection of minorities setbacks have been experienced. In April 2015 The Ukrainian Cabinet of Ministers eliminated<sup>4</sup> the position of Governmental Commissioner in charge of nationalities set up in 2014 by the Government.<sup>5</sup>
4. We believe that eliminating the position of the Governmental Commissioner responsible for national and ethnic policy and replacing it by a lower-level body, which is currently a subdepartment of the Ministry of Culture, will adversely affect Ukraine's national minorities and is also contrary to the European practice. This procedure means the downgrading of the issue in a country where 22 percent of the population belong to a national minority.
5. Under the Law on National Minorities in Ukraine, relations among the nationalities should have been guided by the central body of executive power: the relevant Ministry or other high-level Government Body responsible for minorities.<sup>6</sup>
6. We believe that we must go back to the starting point and, according to a prior practice, an independent Ministry or other sufficiently high-level government body should supervise minority cases.

### Article 5

7. Language socialization is going on in a 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. Just due to it language rights protect languages since language is of key significance in unfolding of 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.
8. Following the Orange Revolution (2004) and 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

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<sup>4</sup> Кабінет Міністрів України; Постанова, від 15.04.2015 № 213.

<sup>5</sup> Постанова уряду № 164 від 4 червня 2014 р.

<sup>6</sup> Закон України «Про національні меншини в Україні»: „Стаття 5. Забезпечення формування та реалізацію державної політики у сфері міжнаціональних відносин та захисту прав національних меншин України здійснюють центральні органи виконавчої влади, визначені Президентом України.”

assimilation of national minorities living on its territory. Amendments to the Education Act, the political will to repeal the Language Act indicate that the government is committed to shrinking 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.

#### Article 6

9. The recent anti-Hungarian manifestations of the extremist Ukrainian nationalist organizations are a case for great concern. Since the outbreak of the conflict in eastern Ukraine the anti-Hungarian outbursts in Transcarpathia County have been growing in number and damages to minority-related monuments as well as settlement nameplates have become more common, in connection with which the authorities show inactivity.
10. On 10 March 2014, two unknown young men set fire to the Hungarian Conquest memorial on the Verecke Pass. The video surveillance system placed in the area recorded the perpetrators, but the investigation has not succeeded since then.<sup>7</sup>



11. On 28 August 2014, unknown people damaged the Hungarian national flag near the Cross on Beregszász Kerek-hill. The fact that the Ukrainian state flag beside the Hungarian tricolour flag was not damaged demonstrated the clearly anti-Hungarian nature of the case. In the morning of the same day the Town Mayor replaced the damaged national tricolour flag by a flag offered by the Consulate of Hungary in Beregszász. However, it was repeatedly desecrated by unknown perpetrators at dawn on Friday, August 29. The police have not found the perpetrators.
12. The statue of the Hungarian poet Sandor Petofi has been regularly desecrated in Ungvár (Uzhhorod). The statue which was inaugurated in 1990, has been repeatedly vandalised in recent years. On 15 March 2009, white paint was poured over it. Then in April 2011 the

<sup>7</sup> <https://www.youtube.com/watch?v=S32UeHYParo>

sword of the poet full-figure statue was sawn off and in September of the same year it was broken. Moreover, on 20 August 2015 and on 5 August 2016 unknown perpetrators again broke the sword of the statue. The police still have not found the culprits.



13. On the night of 20 April 2015 in six Hungarian villages of Ungvár (Uzhhorod) district spray was painted over on the Hungarian village signs. It happened along Ungvár–Csap (Uzhhorod-Chop) main road in Katergény, Homok and along the main road Ungvár–Munkács (Uzhhorod-Mukachevo) in Kisdobrony, as well as in the secluded villages of Tiszaújfalu and Eszeny. In the latter, on both decorative village nameplates the Hungarian-language inscriptions and historical coat of arms of the village were sprayed. Moreover the Hungarian flag on the Hungarian school building was torn. In addition to the six settlements, in Tiszaásvány the Hungarian flag was also ripped from the building housing the municipality and the community house. These are definitely anti-Hungarian actions because everywhere only the Hungarian inscriptions were painted by the perpetrators while those in Latin, written in English transcription place names, namely *Siurte*, *Kholmok*, *Rozivka* were not. In Eszeny and Tiszaásvány only the Hungarian flags were torn apart. The investigating authorities have not caught the vandals.



14. Apart from causing damage to the Hungarian related signage a mass event took place on 13 March 2013 in Ungvár (Uzhhorod) with the Karpatska Ukrayina Glory March of Heroes involving the Karpatska Sich and representatives of its military subdivision, the Azov Civil Corps, members of the Ukrainian Fraternal Association of Participants in ATO Combat Operations the Praviy Sector, Ultras Uzhhorod, Ultras FK Metalist and others.
15. While chanting the slogan " Hungarians on Knives" the members of the grouping were marching in Sandor Petofi Square. They were repeatedly shouting it for a long time and all the bystanders in this busy place heard it. The audio and video recordings made of the events were then spreading to other media sites. The recordings show that the procession was accompanied by police forces. However, the police failed to act against the ethnic incitement.
16. The above-described 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.
17. These acts were committed by organized groups of people in front of a large public. Being provocative in nature they aimed to destabilize the social and political situation in Transcarpathia and destruct Ukraine's image on the international scene.
18. The above described events aimed at intimidating and breaking peace among nationalities and as such, violate laws of Ukraine and the obligations it has adhered to under international conventions. Moreover, they contradict the Constitution of the country.
19. If physical and legal persons affected by those events avoid impeachment, it will testify that Ukraine's legal aid institutions are unable to enforce law, protect the rights and interests of its citizens.

#### **Article 7**

20. Policy advocacy, freedom of speech and freedom of expression can be realised only in a language. Provided freedom of speech and freedom of expression are parts of human rights, than 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 Ukrainian Laws on 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. The electoral laws do not make it possible to prepare ballot papers in languages of national minorities although Article 12 "On the Principles of the State Language Policy" allows it.

#### **Article 10**

21. The Law of Ukraine "On Principles of State Language Policy" positively regulates the use of minority languages even by international standards. However, the Ukrainian government is intending to change the favourable legal conditions.
22. Following the fall of the Yanukovich regime, one of the steps taken by the Ukrainian Parliament was to repeal the new 2012 Language Law. With regard to it several neighbouring states expressed their concern, whereas Russia using this as an excuse annexed the Crimean territory. The language issue in Ukraine is therefore, very tense. Despite this, based on the Application dated 7 July 2014 (i.e more than two years ago) of 57 Members of Parliament on 17 November 2016 the Constitutional Court launched an investigation into the constitutionality of the Language Law adopted four years ago. The

Language Law is based on the European Charter for Regional or Minority Languages. The abrogation of this Law is a significant setback to the minority language rights in a number of areas such as, personal use of names and the bilingual use of geographical names. Besides, in public administration it in fact, repeal them which might lead to generating further social and political conflicts.

23. The intention to shrink language rights is seen in the Law of Ukraine "On State Service" adopted in 2015, Article 8 of which provides for the exclusive use of the state language by state officials. Thus it will be impossible to implement Article 10 of the Framework Convention in Ukraine. Furthermore the new Law is contrary to the principles formulated in Article 10 of the Charter. Provisions of the Law of Ukraine "On State Service" are inconsistent with the provisions of the Language Law being in force currently.
24. The majority of citizens and a significant part of civil servants working in state and self-government bodies are unaware of their linguistic rights and obligations. This has been confirmed by several studies.<sup>8</sup> Lack of knowledge about the Charter and the 2012 Language Law hinders their implementation, and impedes the use of regional and minority languages.
25. We consider it important that the state takes an active role disseminating information about the language laws to the general public and particularly to civil servants responsible for implementing language rights.
26. The 2012 Language Law provides rights to use regional and minority languages in public administration. However, unfortunately Ukrainian state- and self-government bodies use minority languages in public administration so narrowly that it falls even beyond their Charter undertakings.
27. In Transcarpathia county, the proportion of residents with Hungarian mother tongue is 12,6%. According to the 2012 Language Law, it should be possible to use Hungarian in the county's public administration offices. This is, however, not possible, neither orally nor in writing. Since 2012, the county assembly has been refusing to put on its agenda the question of implementation of the 2012 Language Law.
28. The proportion of residents with Hungarian mother tongue is 80,2% in the Berehovo-Beregszász district, and 54,5% in the town of Berehovo-Beregszász. However, Hungarian can only be used orally before the local public administration offices. The use of Hungarian in writing is exceptional in the municipalities of the region. We confirmed this with our research.<sup>9</sup>
29. Between January and April of 2015, three researchers called 53 Transcarpathian municipality offices located in municipalities where the proportion of Hungarians was at least 10%. The 2012 Language Law mandates the use of Hungarian in oral and written communication with customers in these public administration bodies.
30. From the 53 contacted municipalities, employees in 48 were able to respond in Hungarian. From the remaining 5, in 2 cases the person picking up the telephone directed the callers to a colleague who spoke Hungarian. In 3 cases, the municipality's employee insisted on speaking in Ukrainian. It can be concluded that in 50 out of 53 cases (94,3%) it was possible to communicate orally in Hungarian with local public administration bodies.
31. The situation was worse with regard to written communication. From the 53 contacted municipalities, 40 (75,5%) responded that residents can submit petitions to the local administration in Hungarian. 13 municipalities accept submissions only in Ukrainian. 1 municipality, where the proportion of Hungarian residents is 18,4%, responded that in

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<sup>8</sup> For example: [http://bgazrt.hu/\\_dbfiles/blog\\_files/7/0000011577/Kisebbségkutatás\\_2015-3.7-24.pdf](http://bgazrt.hu/_dbfiles/blog_files/7/0000011577/Kisebbségkutatás_2015-3.7-24.pdf); <http://www.prominoritate.hu/folyoiratok/2015/ProMino-1503-04-Ferenc.pdf>; [http://real.mtak.hu/32662/1/Toth\\_Eniko\\_2015\\_Hatarhelyzetek\\_VIII\\_u.pdf](http://real.mtak.hu/32662/1/Toth_Eniko_2015_Hatarhelyzetek_VIII_u.pdf)

<sup>9</sup> [http://bgazrt.hu/\\_dbfiles/blog\\_files/7/0000011577/Kisebbségkutatás\\_2015-3.7-24.pdf](http://bgazrt.hu/_dbfiles/blog_files/7/0000011577/Kisebbségkutatás_2015-3.7-24.pdf)

principle they should accept Hungarian submissions, but at present the local public administration bodies have no employees who could read them.

32. From the municipalities insisting on Ukrainian-only submissions, 1 from the Berehovo and 1 from the Vynohradiv district, justified their position simply by saying that “we live in Ukraine”. One public servant added that the mayor also speaks only Ukrainian, and “this is not Hungary anyway”. Another 2 municipalities responded that submissions have to be written in Ukrainian, but if somebody does not speak Ukrainian they would help them. To our question why is it not possible to submit petitions in Hungarian if the law allows it, we received the (incorrect) answer that “that law has not been adopted yet”. This shows that the state does not inform employees of public administration bodies about laws guaranteeing citizens’ language rights.
33. It has to be added that even in municipalities which in principle do accept submissions in Hungarian, this is often just a theoretical possibility which is hindered by the lack of bilingual documents and forms. Bilingual forms have not been distributed by the ministries, and local self-government do not have funds to create these on their own.
34. The mayor of the town of Berehovo-Beregszász, with a 58% Hungarian population, reported in the media that the implementation of the 2012 Language Law is problematic because of lack of civil servants speaking Hungarian.<sup>10</sup>
35. Item 10.4.1 of Resolution 1985 (2014) on “The situation and rights of national minorities in Europe” adopted by the Council of Europe Parliamentary Assembly calls on member states to “promote the official use of languages spoken by ethnic minorities in the areas where they live, local or regional level, in accordance with basic principles of the European Charter for Regional or Minority Languages. The intention of the Ukrainian government to repeal the law “On the principles of the state language policy” might completely confine the official minority language use. In Ukraine, the language rights must be regulated so that not to shrink the already existing rights on the use of languages of national minorities. The Government intentions to promote the state language (Ukrainian language) cannot be associated with the marginalization of languages of national minorities.
36. In Transcarpathia, the involvement of interpreters during the judicial proceedings takes place in compliance with the law. If one of the parties does not speak the state language, the judges at the Court of the Berehovo-Beregszász District and the Vynohradiv-Nagyszőlös District decide on the involvement of interpreters. It has to be noted, however, that despite the fact that laws on the administration of justice have been recently adopted or amended, they do not regulate the requirements (command of language, education, expertise) towards interpreters involved in judicial proceedings.
37. Articles 14-17 of the 2012 Language Law lay down the widespread use of regional languages in the administration of justice. Other laws also contain provisions concerning the use of languages in the administration of justice, including Article 12 of Judgment No17-pp/2011 of the Constitutional Court of Ukraine which also provides the use of the mother tongue or another known language in the court proceedings. In its Judgment the Board defines that the costs of interpretation in court proceedings should be borne by the State. In practice, however, the requirements of the Law and Constitutional Court are not implemented. According to the arguments of judges translation of documents into regional and minority languages will only prolong the process. Judges dislike to use regional or minority languages in proceedings, they do not use it in most cases with reference to strict deadlines, lack of resources or because of insufficient capacity.

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<sup>10</sup> <http://zakarpattya.net.ua/News/100838-Na-Zakarpatti-zakon-pro-movy-zabuksuvav-%E2%80%9494-ne-vystachaie-chynovnykiv-iaki-znaiut-uhorsku>

## Article 11

38. Article 28 of the Law of Ukraine "On the principles of the state language policy" clearly states: "2. Names of the citizens of Ukraine in regional or other languages shall be recorded in accordance with the established standards. 3. Every Ukrainian citizen shall have the right to use his/her surname and name (and patronymic) in accordance with traditions of the given language, as well as to the official recognition thereof. Exercise of this right shall require the surname and name (and patronymic) in the passport of the citizen of Ukraine, the passport of the citizen of Ukraine for travelling abroad and other official documents to be transcribed from the Ukrainian, Russian or other language of choice of the citizen. 4. Surname and name (and patronymic) in the passports and other official documents, shall be recorded with preliminary approval of the owner.
39. In spite of the provisions of the Language Law Ukrainian passports continue to include the name of the citizens in Ukrainian and Russian only. The names of the citizens belonging to national minorities who are not using the Cyrillic script are transliterated without consulting the citizens. Thus, due to inconsistent transliteration habits the name of the same citizen may differ in different documents.
40. According to the Article 27 of the Law of Ukraine on state language policy, signs with all local geographic information such as municipality names, railway stations, street names, etc. have to be displayed both in regional and minority languages in municipalities where the speakers of these languages constitute at least 10% of the local population.
41. In Transcarpathia, in most municipalities where members of the Hungarian, Romanian and German community live, the official signs displaying the municipalities' name are bilingual. This is not the case with municipalities which should display municipality names in Slovak, Russian, Romani and Rusyn languages. The village of Storozhnytsa (Сторожниця) has a sign in Slovak, but this was not displayed by the state administration but a civil association.
42. In some cases, the municipality has a bilingual sign in one place and a Ukrainian-only sign in another. These pictures show the four signs at the entrances to the town of Berehovo-Beregszász.



43. Only two of the four signs display the town's Hungarian name: Beregszász. The other two contain the town's Ukrainian name only, with Cyrillic and Latin transcription.
44. In the last four years it happened several times that signs in regional and minority languages were vandalized. The media reported, for example, that in the spring of 2015, several Hungarian municipality name signs were sprayed over by unknown perpetrators.<sup>11</sup> A year later a similar incident took place in different municipalities.<sup>12</sup> Despite criminal complaints, the police have to date not found the perpetrators.<sup>13</sup>
45. With the exception of Berehovo-Beregszász, no other municipality has bilingual signs on railway stations in Transcarpathia.
46. Article 27 of the Language Law should apply to all geographical names which are considered as such by Article 1 of the Law on Geographical Names.<sup>14</sup> This includes names of mountains and valleys, lakes, dams, rivers, channels, names of administrative units (counties, districts, towns, municipalities, villages), names of economic-social establishments (railway stations, harbours, airports), areas under environmental protection, and others.
47. These names are, however, seldom displayed in regional and minority languages. Only a few municipalities display bilingual street names. Berehovo-Beregszász and Vynohradiv-Nagszólós are positive examples. According to our interviews with representatives of several other municipalities (for example: Ссап/Чоп, Kaszony/Kосино, Гечсе/Геча, Nagybéány/Велика Бийгань etc.) the cost of bilingual signs have to be borne by the local self-government. The local self-government, however, does not have funds for bilingual signs. Similarly, they usually do not have funds for bilingual official forms, stamps, etc.

## Article 12

48. Since 2008, Ukraine systematically discriminates against speakers of regional and minority languages, and undermines the prestige of education in regional and minority languages. The issues are most serious in two areas: the teaching of the Ukrainian language in minority language schools, and in admission to higher education.
49. A fundamental problem for schools teaching in regional and minority languages is that they have to use textbooks which are translations of Ukrainian textbooks. Not all textbooks are translated, and if they are, they often reach the schools only with several months of delay after the school year started. This is a recurring problem, discussed in the media every year.<sup>15</sup>
50. Schools teaching in regional and minority languages are also not supplied with other teaching materials in the language of instruction, such as maps, atlases, workbooks, supplementary materials. For example, in the 2015/2016 and 2016/2017 school year Transcarpathian schools teaching in Hungarian and Romanian were all using geographical and historical maps in Ukrainian language for geography and history classes.

<sup>11</sup> <http://zakarpattya.net.ua/News/138891-Provokatory-zamaliuvaly-uhorski-nadpisy-na-vkazivnykakh-deiakyykh-uhorskykh-sil-Zakarpattia>; <http://karpathir.com/2015/04/20/provokacio-magyar-falunevtablakat-tettek-tonkre/>; <http://tiszanevs.org.ua/?module=news&&target=get&id=7874>

<sup>12</sup> <http://karpathir.com/2016/04/18/magyarellenes-megnyilvanulas-bustyahazan/>; <https://www.facebook.com/media/set/?set=a.982526975117076.1073741845.664198040283306&type=3>

<sup>13</sup> <http://karpathir.com/2015/04/20/falunevtabla-rongalas-a-rendorseg-hallgat/>

<sup>14</sup> Закон України "Про географічні назви" <http://zakon2.rada.gov.ua/laws/show/2604-15>

<sup>15</sup> For example: <http://www.karpataljalap.net/?q=2007/08/24/komoly-problema-lehet-jovore-az-eretsegi>; <http://www.karpataljalap.net/?q=2011/02/18/miert-megoldatlan-ukrainaban-az-iskolak-tankonyvelltasa>; <http://kisebbssegkutato.tk.mta.hu/uploads/files/archive/1001.pdf>; <http://karpathir.com/2015/08/19/megszunhet-a-karpataljai-magyar-iskolak-tankonyvelltasa/>

## *Inadequate teaching of Ukrainian as a State Language in minority language schools*

51. The Ukrainian state does not create the conditions necessary for mastering the Ukrainian language in schools with a regional and minority language as the language of instruction. This was accepted by the Ukrainian Minister of Education, Ivan Vakarchuk. In his speech given on 4 March 2008, he talked about the effectiveness of teaching the state language in minority schools: 'It has turned out that instead of teaching the Ukrainian language, very often they just imitate doing so. Nevertheless, the best of marks appear in the certificates.'<sup>16</sup>
52. The reasons for the low quality of teaching Ukrainian in minority language schools are complex:

### *a) Lack of adequately qualified teachers*

53. More than 60% of Ukrainian teachers in minority schools in Transcarpathia in the 1997/1998 academic year<sup>17</sup> and more than 40% of such teachers in the 2008/2009 academic year were not qualified to teach Ukrainian.<sup>18</sup> Even President Viktor Yushchenko considered it a disgrace that in a certain number of minority schools there were no well-qualified Ukrainian teachers.<sup>19</sup> The president ordered the heads of local oblast administrations to survey how many tutors of 'Ukrainian language and literature' the country was short of and required to ensure the presence of the necessary number of Ukrainian teachers in every school by 1 September 2009.<sup>20</sup>
54. However, the presidential order was not fully implemented. In 2011, altogether 22 tutors taught Ukrainian in the Hungarian schools in the town of Berehovo-Beregszász. Ten of them had qualifications in Russian language and literature, six were elementary school teachers, and only six of them were qualified teachers of Ukrainian with a degree.<sup>21</sup> In the 2014/2015 academic year, seven out of the 15 tutors teaching Ukrainian in the Hungarian schools of the town were qualified teachers of Russian and only eight were Ukrainian teachers. Until the academic year of 2003/2004, no teachers were trained in Ukraine to teach Ukrainian as a second language (state language) to non-native Ukrainian learners. In those schools where the minority language is the language of instruction, Ukrainian is taught either by teachers who were trained to teach the language to native speakers as their first language, or by teachers with qualifications other than Ukrainian and attended a brief retraining course to be able to teach the language. Furthermore, in many small village schools, Ukrainian is taught by university or college graduates who "just" have a good command of the state language, but are not qualified teachers.

<sup>16</sup> [http://www.mon.gov.ua/newstmp/2008/05\\_03/doc.doc](http://www.mon.gov.ua/newstmp/2008/05_03/doc.doc) (15-05-2010).

<sup>17</sup> [http://www.kmf.uz.ua/hun114/images/konyvek/Nyelv\\_oktatas\\_politika.pdf](http://www.kmf.uz.ua/hun114/images/konyvek/Nyelv_oktatas_politika.pdf), p. 57.

<sup>18</sup> Motilchak, M.: Шляхи поліпшення вивчення української мови як державної у загальноосвітніх навчальних закладах області з навчанням мовами національних меншин [Ways of improvement of learning Ukrainian as a state language in schools with Hungarian language of instruction in the region]. In *Державотворча й об'єднувальна функції української мови: реальність, здобутки, перспективи* [State-forming and uniting functions of the Ukrainian language: realia, achievements, perspectives], ed. Ю. Герцог, 36–44. Ужгород, Поліграфцентр Ліра, 2009. p. 42.

<sup>19</sup> <http://www.reporter.com.ua/news/40461/> (17-06-2015).

<sup>20</sup> <http://tsn.ua/ukrayina/yushchenko-vimagaye-znaiti-po-vchitelju-ukrayinskoyi-movi-dlya-kozhnovo-shkoli.html> (17-06-2015). <http://zakarpattya.net.ua/News/41630-Viktor-Iushchenko-doruchyv-zabezpechty-shkoly-natsmenshyn-vchetyliamy-ukrainskoi-movy> (17-06-2015).

<sup>21</sup> Bárány, E., I. Huszti, and M. Fábíán: Második és idegen nyelv oktatása a beregszászi magyar iskolák 5. osztályában: a motiváció és nyelvi készség összefüggése az oktatáspolitikai tényezőkkel [Teaching a second language and a foreign language in Grade 5 of the Beregszasz Hungarian schools: Connexion between motivation and language skill and educational policy factors.]. In *Nyelvi mítoszok, ideológiák, nyelvpolitika és nyelvi emberi jogok Közép-Európában elméletben és gyakorlatban: a 16. Élőnyelvi Konferencia előadásai* [Language myths, ideologies, language policy and language human rights in Central Europe in theory and practice: Proceedings of the 16<sup>th</sup> Modern Language Conference], eds. K. Hires-László, Z. Karmacsai and A. Márku, 145–54. Budapest–Beregszász: Tinta Könyvkiadó–II. Rákóczi Ferenc Kárpátaljai Magyar Főiskola Hodinka Antal Intézete, 2011. p. 146.

55. Some of these teachers do not know the language and culture of the nationality to whom they teach Ukrainian, even though the Hague Recommendations<sup>22</sup> on the educational rights of minorities as well as language right experts (e.g. Tove Skutnabb-Kangas) claim that the state language should be taught by bilingual teachers.

***b) Lack of appropriate textbooks***

56. After introducing the Ukrainian language as a compulsory school subject, no syllabi and textbooks necessary for teaching this subject were developed for some time. When they did appear, they were criticised by teachers working in minority schools. The primary criticism was that the syllabi and the textbooks were compiled by teachers and research fellows who did not know the situation, the language and the culture of the minorities in question. The textbooks were justly criticized for being too grammar-focused, for concentrating too much on the theoretical teaching of grammar and not being communication-oriented.<sup>23</sup>

57. The syllabus and the textbooks do not correspond to the already acquired languages of the children either: the expectations exceed the possibilities. The Ukrainian syllabus does not adequately rely on the already existing foreign and native language skills acquired at and outside school. It drills children in several grammatical categories that they have already become familiar with in their native language classes. For example, children already know the basic parts of speech (they already know what the verb, the noun, the adjective, the numeral, the pronoun, etc. are from their Hungarian classes), but they should also know the definitions in Ukrainian taught in their Ukrainian classes as early as lower primary school, instead of placing the emphasis on developing the pupils' oral language skills. After examining the textbooks, one may have the impression that education experts consider it more important to learn the Ukrainian grammar system rather than learning the Ukrainian language itself. Schools do not facilitate the acquisition of the Ukrainian language but deliver theoretical, grammatical knowledge about it. According to the curriculum, in grade 5-9, approximately a quarter of the total hours can be devoted to language and speech practice during the academic year; the rest of the hours are used almost exclusively to teach grammar (see Table 1).

***Table 1. Number of hours according to the curriculum that can be devoted to language use in Grades 5-9 of schools with Hungarian as the language of instruction***

<b><i>Grade</i></b>	<b><i>Number of hours during the academic year</i></b>	<b><i>Number of hours devoted to language skills development (listening, speaking, reading and writing)</i></b>	<b><i>In percentage (%)</i></b>
5.	105	23	21.9
6.	105	20	19.0
7.	70	18	25.7
8.	70	20	28.6
9.	70	18	25.7

58. Although Ukrainian has been a compulsory school subject in schools with Hungarian as the means of instruction since 1991, the methodological aids that would supplement textbooks have not been completed to this day: there are no teacher manuals, school dictionaries, or video or audio materials. The Ukrainian budget does not support the publication of educational aids.

<sup>22</sup> "The official State language should also be taught as a subject on a regular basis preferably by bilingual teachers who have a good understanding of the children's cultural and linguistic background." The Hague Recommendations, pp. 6–7.

<sup>23</sup> [http://real.mtak.hu/24226/1/CsI\\_Zbornik\\_anglicky\\_u.pdf](http://real.mtak.hu/24226/1/CsI_Zbornik_anglicky_u.pdf)

**c) Homogenization: universal curricula, textbooks and methods**

59. The Ukrainian educational policy homogenizes the image of language learners. It approves universal curricula and textbooks, while we know that a child living on a housing estate in the city and another child living in a small village in the countryside start acquiring Ukrainian in different language contexts and situations. Also, in foreign language teaching, it is natural nowadays to divide learners into beginner, intermediate, etc. groups with a small class size only, and they follow syllabi corresponding to their levels, and they are then provided with the differentiated teaching materials they need.
60. In Ukraine, it was Decree No. 461 issued in 2008 by the Ministry of Education that allowed minority language schools to divide classes with a large number of learners into smaller groups in Ukrainian classes. This was not possible between 1991 and 2008; instead, it was frequent to have 25 to 30 pupils in a language class. But not even this decree specifies according to what principles the children should be divided into groups. Nor does it indicate that the state would provide different curricula and textbooks for children who enter the school with various levels of Ukrainian, and there are no assessments regarding the level of Ukrainian skills of children starting school.

**d) Different number of hours for teaching Ukrainian**

61. We have mentioned that the subject 'Ukrainian language' means quite different things in Ukrainian and in schools with regional or minority languages of instructions. This is also reflected in the number of hours spent teaching the subject. If we examine the data in Table 2, we can see that there was a significant difference between the numbers of weekly hours spent teaching Ukrainian in the academic year 2015/2016 and 2016/2017 in the two types of schools.
62. Letter No 1/9-253 issued on 22 May 2015<sup>24</sup> defines the number of hours for the school year 2015/16. Decree No 855 issued by the same ministry on 7 August 2015 made modifications<sup>25</sup> regarding the above-mentioned subjects.

**Table 2. Weekly hours of the language and literature courses in schools with Ukrainian and schools with Hungarian as the language of instruction in the 2015/2016 academic year**

<b>Schools with Ukrainian as the language of instruction</b>												
<b>Subjects</b>	<b>hours per forms weekly</b>											<b>Total</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	
Ukrainian language (first language + state language)	7	7	7	7	3.5	4	3	2	2	2	2	<b>46.5</b>
Ukrainian (national) literature					2	2	2	2	2	2	2	<b>14</b>
Foreign language	1	2	2	2	3	3	3	3	2	3,5	3,5	<b>28</b>
World literature					2	2	2	2	2	2	2	<b>14</b>
<b>Total</b>	<b>8</b>	<b>9</b>	<b>9</b>	<b>9</b>	<b>10,5</b>	<b>11</b>	<b>10</b>	<b>9</b>	<b>8</b>	<b>9,5</b>	<b>9,5</b>	<b>102.5</b>
<b>Schools with regional or minority as the languages of instruction</b>												
Ukrainian language (state language)	3	3	4	4	3.5	4	3	2	2	2	2	<b>32.5</b>
Ukrainian literature (literature of the majority nation)					2	2	2	2	2	2	2	<b>14</b>
Foreign language	1	2	2	2	3	2	2	2	2	3	3	<b>24</b>
First language (Regional or Minority Language)	6	6	5	5	3	4	3	2	2	1	1	<b>38</b>
Integrated literature (national + world literature)					2	2	2	2	2	2	2	<b>14</b>
<b>Total</b>	<b>10</b>	<b>11</b>	<b>11</b>	<b>11</b>	<b>13,5</b>	<b>14</b>	<b>12</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>122.5</b>

<sup>24</sup> [http://osvita.ua/legislation/Ser\\_osv/46996/](http://osvita.ua/legislation/Ser_osv/46996/)

<sup>25</sup> <http://www.mon.gov.ua/usi-novivni/novini/2015/08/07/zbilsheno-godini-na-vivchennya-inozemnoi-movi-v-shkoli/>

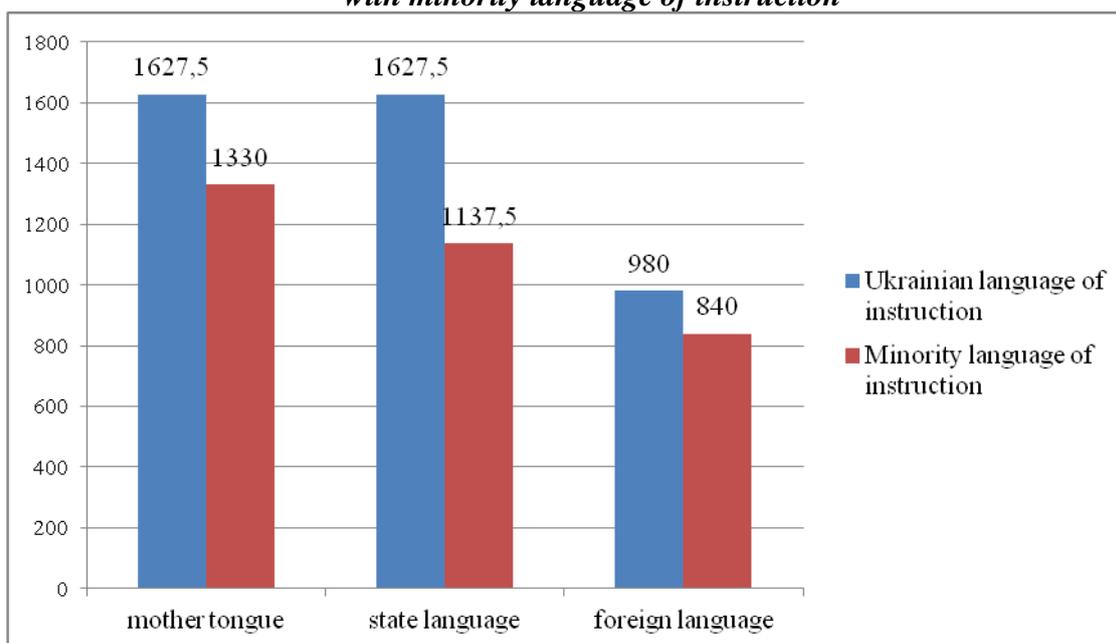
63. In Ukrainian-language schools both subjects "Ukrainian language" and "Foreign language" are taught in a higher number of lessons than in schools with the minority language of instruction. In addition, children with Ukrainian as their native language can have more lessons learning their mother tongue, i.e. Ukrainian than the national minority in learning their own language. These discriminatory differences are summarized in Table 3.

**Table 3. Difference between the number of language and literature hours in schools with Ukrainian and schools with regional or minority as the languages of instruction in the academic year 2015/2016 (language and literature section)**

	Traditional school		
	Ukrainian as the language of instruction (majority=MA)	Regional or minority language as the language of instruction (MI)	Difference (MA-MI)
First language	46.5	38	<b>8.5</b>
State language	46.5	32.5	<b>14</b>
Foreign language	28	24	<b>4</b>

64. During the 11 years of education (from the 1st class to the 11th) students attending schools with Ukrainian as the language of instruction have a total of almost 500 hours more allocated to Ukrainian language lessons than those whose first language is not Ukrainian (Figure 1). However, the Advanced level graduation and entrance exam requirements from the Ukrainian language are the same: regardless of whether one is doing the native language exam with a total of nearly 500 hours more allocated to language learning, or with much less hours allocated to learning Ukrainian for others whose mother tongue in addition, is not Ukrainian. This is discrimination.

**Table 4. The total number of hours allocated to teaching language subjects (from form 1st to 11th) in schools with Ukrainian as a language of instruction and in schools with minority language of instruction**



65. The less number of hours allocated to teaching Ukrainian in minority schools could be objectively justified by the fact that the purpose of these classes is different in minority language- than in Ukrainian schools. They complement grammar and literature classes that pupils take in their mother tongue. However, since the curriculum and the textbooks are not adapted to the needs of minority language speakers, it cannot be said that the different purpose of teaching Ukrainian in different types of schools is recognized by the state. The state requires teaching students with a regional or minority languages their mother tongue the same way as students whose mother tongue is Ukrainian, and in less total hours. It is no wonder that many students fail to learn Ukrainian properly, and suffer as a result. The ineffective teaching of Ukrainian in minority schools is a very serious issue reducing the prestige of education in regional and minority languages, and seriously discriminating against students studying in minority language schools.

***Consequences of low-efficiency language teaching: discrimination in access to higher education***

66. The educational policy in Ukraine interprets the concept of ‘similar chances’ in a peculiar way. Though it is evident that in schools with Ukrainian and in schools with Regional or Minority Language of instruction the aim of teaching the subject ‘Ukrainian language’ is different and the weekly hours allocated to teaching the language are also different, the requirements towards the learners’ language knowledge differ in no way. The same requirements must be met by everybody at the independent testing in Ukrainian language and literature that was launched compulsorily in 2008.

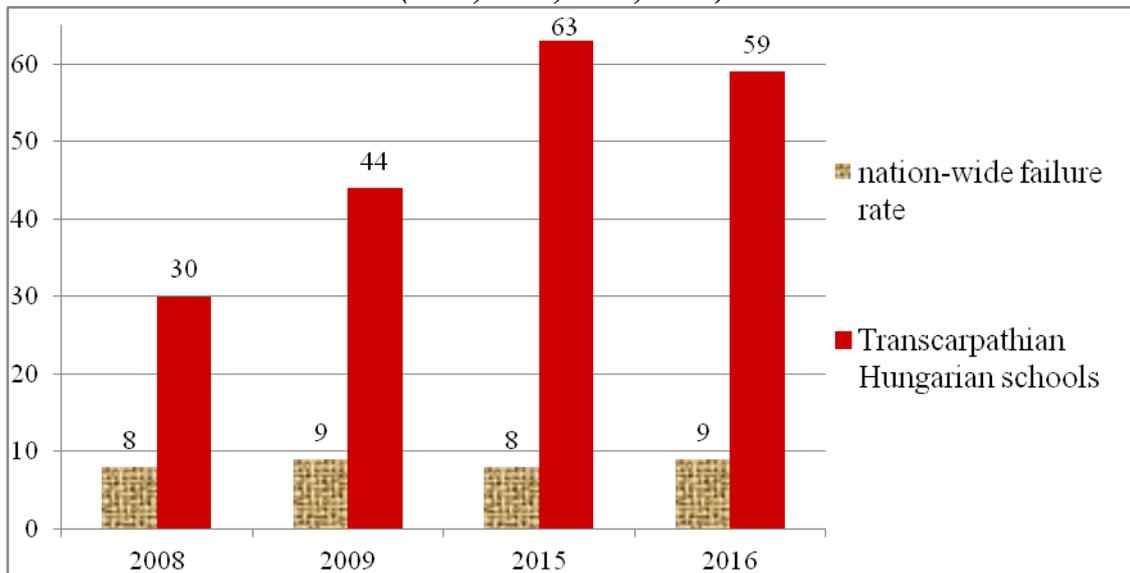
67. This has severe consequences for students. In accordance with Decree No 1171 of the Minister of Education issued on 25 December 2008, applicants to tertiary education (applying for any majors) must pass the very same central examination in ‘Ukrainian language and literature’ in the whole country.<sup>26</sup> In 2008, 8.38% of all applicants did not pass the Ukrainian exam and thus did not achieve the minimum score required for admission to tertiary education. This ratio was 9% in 2009. In Transcarpathian Hungarian schools, the ratios of students not passing the Ukrainian exam were 29.58% and 44% in the two years respectively.<sup>27</sup> In 2015, the ‘Ukrainian language and literature’ exam was compulsory not only for those who wished to get admitted to tertiary education but for every single school-leaver. In the whole of Ukraine, 8% of school-leavers failed the exam. In Transcarpathia, the ratio of failures among school-leavers in Hungarian schools was 63%. In 2016 situation is no different (Figure 2).

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<sup>26</sup> <http://zakon1.rada.gov.ua/laws/show/z0005-08>

<sup>27</sup> [https://www.academia.edu/18890628/Education\\_as\\_an\\_ideal\\_means\\_of\\_achieving\\_a\\_Nation\\_State\\_in\\_Ukraine](https://www.academia.edu/18890628/Education_as_an_ideal_means_of_achieving_a_Nation_State_in_Ukraine), pp. 334–335.

**Figure 2. Ratio (in percentage) of examinees who failed the Independent Testing in ‘Ukrainian language and literature’ (i.e. did not obtain the minimum score needed to be admitted to tertiary education) in Ukraine and in the Transcarpathian Hungarian schools (2008, 2009, 2015, 2016)<sup>28</sup>**



68. There is no reasonable justification for subjecting students of minority language schools to the same requirements in Ukrainian exams as Ukrainian students. Holding everybody accountable to the same standard in this case amounts to denial of reasonable accommodation, which constitutes discrimination, especially since the state is responsible for the inadequate teaching of Ukrainian in minority schools. By maintaining a policy which keeps the vast majority of students from Hungarian schools out of tertiary education, the state severely punishes Hungarian students and other students attending minority language schools for the state’s own failure.
69. One of the most serious problems is that the Ukrainian state does not clearly establish what the sufficient number of children is to organize education in regional and minority languages.
70. According to the 2012 Language Law, the Ukrainian Constitution and the 1991 Law on Education, citizens have a right to be educated in the language of their choice. The state ensures the realization of this right by establishing childcare facilities, schools, vocational schools and universities teaching in minority languages, or by establishing separate classes or departments teaching in other languages in Ukrainian-teaching educational institutions.
71. The demand for institutions teaching in minority languages is established based on applications by students or their parents. However, no law specifies how many applications are necessary to open a school or class teaching in a minority language. According to the practice of the Ministry of Education and Science of Ukraine, 8 pupils are necessary to open a class in an urban environment, and 5 in a rural environment. These numbers could serve as a guideline, but they are not set in the law nor enforced. This allows the competent authorities, or persons having power over this issue, to decide subjectively, based on their own consideration, how many applications will be necessary

<sup>28</sup> [https://www.academia.edu/18890628/Education\\_as\\_an\\_ideal\\_means\\_of\\_achieving\\_a\\_Nation\\_State\\_in\\_Ukraine](https://www.academia.edu/18890628/Education_as_an_ideal_means_of_achieving_a_Nation_State_in_Ukraine) and “A 2015-ös érettségi/felvételi eredményekről a tanév közepén bevezetett új eljárási rendszer függvényében” [About the 2015 school leaving exam / entrance exam results in accordance with the new procedures launched in the middle of the academic year]. <http://www.kmf.uz.ua/hun114/index.php/component/content/article/48-friss-hirek/2071-a-2015-oes-erettségifelveteli-eredmenyekr1-a-tanev-koezepen-bevezetett-uj-eljarasi-rendszer-fuggvenyeben.html>

for them to approve the opening of an educational establishment teaching in a regional and minority language. This allows abuse to take place, by empowering regional public administration bodies to reject requests asking for education in regional and minority languages. It happens frequently that parents' requests are denied without specifying how many requests of the same type were submitted and why their number was deemed insufficient, even in places where according to the informal statistics of Transcarpathian Association of Hungarian Pedagogues several parents requested Hungarian classes.

72. This legal uncertainty is coupled with the fact that the state does not systematically survey parents' demand for education. Once applications asking for minority language schools or classes reach the schools or the district or county educational authorities, authorities decide whether to approve opening of such schools or classes taking into account the advocacy and political power of the community speaking the regional or minority language.
73. The Parliament adopted the new Law on Higher Education after the 2012 Language Law.<sup>29</sup> Article 48 of the Law discriminates against regional and minority languages by allowing only non-state universities to choose their language of instruction. Also, in state universities only foreign nationals and students financing their own education can receive instruction in a language other than Ukrainian. We see no objective reason for such restrictions.
74. We ask the Committee of Experts to state in its report that the current practice of Ukrainian authorities regarding organizing education in minority languages does not meet the requirements of the Framework Convention for the Protection of National Minorities.

#### **Article 14**

75. The Government of Ukraine intends to severely restrict the educational rights of national minorities. The Government argues that they intend to regulate the education of national minorities with the principles of the Framework Convention for the Protection of National Minorities and The European Charter for Regional or Minority Languages.
76. However, Ukraine's undertaking under Article 8 of the Charter were insufficient to meet the needs of speakers of regional and minority languages already at the time of the Charter's ratification. Education in regional and minority languages was more comprehensive and developed already at the time of ratification than what Ukraine committed itself to. The state therefore does not intend to develop education in regional and minority languages. There are also several problems with the current state of education in regional and minority languages in Ukraine.
77. The Government intends to shrink the already existing rights of national minorities. Currently, the right to mother-tongue education is protected by laws in Ukraine.
78. According to the 2012 Language Law, the Ukrainian Constitution and the 1991 Law on Education, citizens have a right to be educated in the language of their choice. The state ensures the realization of this right by establishing childcare facilities, schools, vocational schools and universities teaching in minority languages, or by establishing separate classes or departments teaching in other languages in Ukrainian-teaching educational institutions.
79. "Citizens who belong to national minorities are guaranteed in accordance with the law, the right to study in their native language or to study their native language in state and communal educational establishments." (Article 53 of the Constitution of Ukraine).
80. "The freedom of choosing the language of education is the inalienable right of the citizens that is realised in this law, besides the obligatory acquisition of the state language to an extent that is enough for the integration of the person to the Ukrainian society. (...) The

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<sup>29</sup> Закон України «Про вищу освіту» <http://zakon5.rada.gov.ua/laws/show/1556-18/page4?text=%EC%EE%E2>

education of the state language, regional or minority languages is guaranteed for the citizens of Ukraine.” (Article 20, The Law of Ukraine „On Principles of State Language Policy)

81. Ukraine is ready to adopt the new Education Act. Article 7 of the new Draft Law “On Education” submitted to the Parliament of Ukraine deals with the language of instruction. By 10 November almost 50 amendments had been proposed to the text of Article 7 and with exception of two (!) amending proposals they all would repeal or shrink the current education in regional or minority languages! Most of the proposals will merely authorize the regional or minority languages as a subject to be present in the educational process. Many proposals would allow up to maximum two hours per day to be allocated to instruction in regional or minority languages. Others also argue that the entire process should be developed into bilingual: the regional or minority languages can be present in education alongside the State language. However, this is concerns minorities only, the Ukrainian-language schools can continue to use only one language of instruction.
82. Some current proposals would allow regional or minority language education, but only on the level of public education: in vocational and higher education the use of the state language will only be allowed.
83. Let us consider the amendment, which is supported by Lilia Hrynevych, Minister of Education and Science of Ukraine:
84. “Those persons who belong to national minorities and to indigenous peoples have the right to education in their native language alongside with the Ukrainian language in state and communal preschool and comprehensive secondary education establishments in areas of their compact residence”.
85. Thus, the constitutional guarantees shall be modified into right, which can be implemented only in compliance with two additional conditions not laid down by legislation namely, minority education can be provided only alongside the Ukrainian language and only in areas of compact residences of the relevant minority, at pre-school and secondary education stages only.
86. Whatever proposal is voted for by the parliament, regional or minority language education in Ukraine will be significantly confined. Most of the amendments is also contrary to the Constitution which guarantees to national minorities the right to study their native language or study in their native language. Questioning and shrinking of the right of education in the language of national minorities is contrary to the spirit and intentions of the Framework Convention for the Protection of National Minorities document and also aims of the European Charter for Regional or Minority Languages. Item 10.4.3. of Resolution No 1985(2014) of the Council of Europe on “The situation and rights of national minorities in Europe” calls the member states of the General Assembly to “take the necessary steps to ensure continuity of education in the mother tongue in secondary (including vocational) and higher education”.
87. Consequently, it means that Ukraine (as a member of Council of Europe) should support education in the language of national minorities from kindergartens to universities. Based on amendments submitted to Article 7 of the Education Act and letter No 1/11-15930 of 15 December 2016 by Lilia Hrynevych, Minister of Education of Ukraine, written to representatives of the European Parliament, it is clear that the intentions of the Ukrainian government endanger the system of education in the language of national minorities .
88. The Ukrainian government intends to repeal the education in minority languages by claiming that in schools with Russian, Romanian, Hungarian, Polish, etc. languages of instruction students do not master the state language, and this creates a disadvantage for the minorities. However, instead of teaching all the subjects in Ukrainian, the government must increase the level of education of the state language. If a child who belongs to

national minority cannot do well in Ukrainian, and he/she is taught Mathematics, Physics, History, Geography etc in the Ukrainian language, he/she will lack knowledge of the subjects. This is discrimination. During the 25 years of its independence Ukraine did not create the necessary conditions for learning the state language in schools of national minorities. By doing so it violates item 3 of Article 14 of the Framework Convention and infringes the right of national minorities to integration. Therefore, not the education in the language of national minorities must be reduced, but rather the quality of instruction of the Ukrainian language should be urgently and significantly improved by applying new approaches and modern methods and also reforming teacher training.

## Article 15

89. Representation of national minorities in the Parliament in Ukraine is not guaranteed by law and chances of getting into the 450-member legislative assembly is largely determined by the currently existing electoral system and laws regulating the conduct of elections. Frequent changes in the electoral system had an impact on interest enforcement chances of ethnic groups living in the country, including the Hungarians. Significant setbacks have been experienced in the country since gaining independence in this area of law enforcement which do not meet *inter alia*, the requirements enshrined in Articles 15 and 16 of the Framework Convention.
90. During the 2014 parliamentary elections, a mixed electoral system was approved, but despite legal requirements and applications submitted by national organizations, no district had been established that would have provided an opportunity for ethnic minorities living compactly to elect a candidate to represent their own interests. A mixed electoral system had been also previously applied. Regarding the national minorities a mixed electoral system might have been beneficial provided ethnic relations are taken into account when establishing electoral districts. In respect of the 1998<sup>30</sup> and 2002<sup>31</sup> parliamentary elections in Transcarpathia with the establishment of the Hungarian-majority districts the Transcarpathian Hungarians got an opportunity for parliamentary presence, since the Hungarian candidates could have a chance in electoral districts.
91. However, in 2012<sup>32</sup> the new electoral district boundaries adversely affected the Hungarian national minority. The election law under the old/new mixed electoral system did not provide for the establishment of minority districts. Six single-mandate districts were established in Transcarpathia in which the Hungarian population living compactly was separated into three different electoral districts thus becoming a minority in each of them. By this division chances of Hungarians were reduced to minimum and it made impossible for the community to be able to get their own representative in the legislature. Gerrymandering the constituency boundaries favoured then those in the office, candidates of the Yanukovych-led Party of Regions and the local oligarchs.

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<sup>30</sup> ЗАКОН УКРАЇНИ „Про вибори народних депутатів України” № 541/97-ВР. Az 1998-as választásokra a választási törvénybe bekerült az a tétel, mely szerint a körzethatárok kialakítása során figyelembe kell venni az etnikai határokat. Az 1998-as választások alkalmával Kárpátalján öt egyéni körzetet hoztak létre, köztük a 72. számú Ungvártól Aknaszlatináig húzódó egyéni választókerületet, ahol a magyar nemzetiségű választópolgárok aránya 50%-ot tett ki.

<sup>31</sup> A 2002-es választásokra ismét módosították a választási törvényt. A nemzeti kisebbségekre nézve negatívan hatott, hogy a módosítás során kikerült a törvényből az a tétel, mely az etnikai választási körzetek kialakítását korábban előírta. Kárpátalján hat egyéni körzetet alakítottak ki. A kialakított körzetek között továbbra is a 72. számú egyéni körzet foglalta magába a legtöbb magyar szavazót, azonban a választókerületről nyolc, főképp magyarok lakta települést csatoltak le, ami a körzet magyarságát mintegy 10 000 fővel csökkentette. A szavazókerületről leválasztott többségében magyarok lakta települések helyett nagyobb lélekszámú ukrán településeket csatoltak a körzethez, ami az ukránok és magyarok arányát tovább rontotta.

<sup>32</sup> A 68. számú, Ungvár központú választókerülethez került megközelítőleg 25,6 ezer magyar szavazó, a körzetben a magyarság részaránya mindössze 16,1%-ot tett ki. A 69. számú, Munkács központú választókerületbe került megközelítőleg 28,5 ezer magyar, arányuk a körzetben csupán 17,8 %-ot tett ki. A 73. számú, Nagyszőlős központú körzetben a magyarok részaránya mindössze 33,6%. Az összesen 147 026 szavazót magába foglaló 73. körzetben 49 418-ra becsülhető a magyar szavazók száma. A 70-es, 71-es és 72-es körzetekben a magyar szavazók aránya elenyésző, nem éri el a 6–8%-ot.

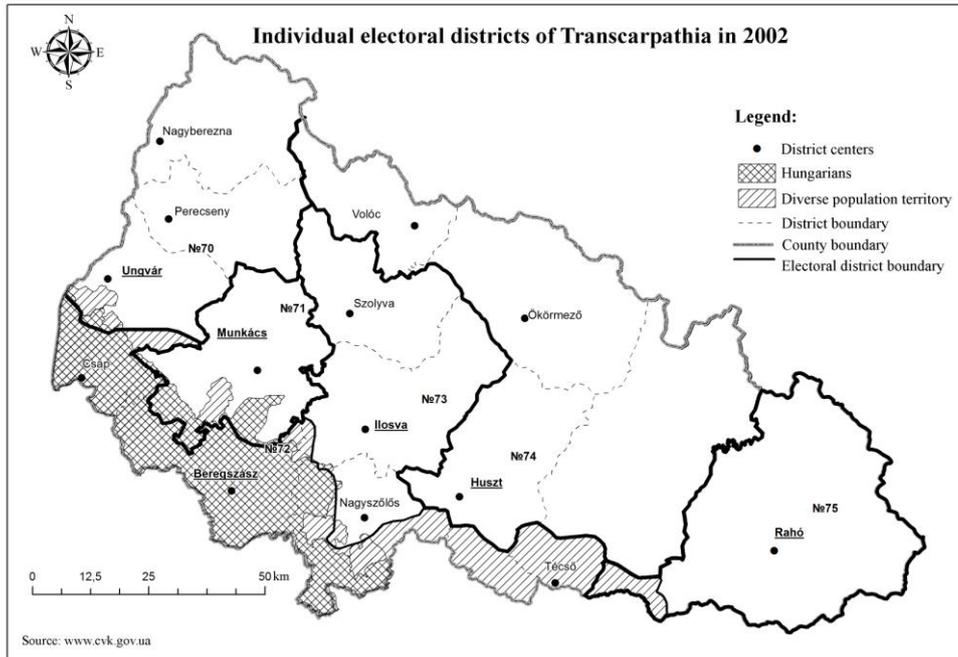
92. Prior to the previous elections the Transcarpathian Hungarian Cultural Association (KMKSZ) on 7 August 2014, submitted a petition to the Central Election Commission and its President, in which they called for the establishment of an adequate electoral district to represent the interests of the Hungarian national community living compactly. Apart from the application, a schematic map of potential minority districts delineated by the Transcarpathian Hungarian Cultural Association and a list of the settlements (containing data on the ethnic composition and number of population) were submitted to the official Body. On 27 August 2014, the Central Election Commission established the district boundaries in single-mandate parliamentary elections. Based on the decision of the Board – apart from minor modifications – the electoral districts drawn up in 2012 remained without any changes. Contrary to promises and expectations, they failed to establish a Hungarian majority electoral district. Having disregarded the submission of the Transcarpathian Hungarian Cultural Association, the Body did not change the constituency districts established in 2012 which separated the Transcarpathian Hungarians living compactly into several different constituency districts thus making it impossible for a Hungarian candidate to be elected to the Parliament. The case is interesting because in 2012 an amendment was passed into the electoral law which repeatedly required to take into account ethnic issues in establishing electoral districts.
93. The Law on Election of Members of Parliament is quite clear regarding the items stating that ethnic boundaries should be considered in establishing electoral districts. Part 3 of Article 18 of the Law provides that *"The boundaries of the single-mandate districts should be defined taking into account the administrative and territorial unit boundaries, the interests of the territorial community and particular areas of settlements of given national minorities. It also adds, that those administrative-territorial units where certain national minorities are living compactly and have common borders shall belong to the same electoral district."*<sup>33</sup> Consequently, the principle of ethnic proportionality had been incorporated into the electoral law, but was not applied. This has been evidenced by repeated separations of the Hungarian population into different electoral districts.
94. The Transcarpathian Hungarian Cultural Association (KMKSZ) protested by legal means against the Ukrainian Central Election Commission's decision. On 1 September 2014 the Transcarpathian Hungarian Cultural Association making use of the opportunities offered by the law made a complaint against the decision of the Central Election Commission. In its document package submitted to the The Central Election Commission and the Kyiv Administrative Court of Appeal the Association called the authorities to reconsider the Body's decision, which applies to the electoral districts established in Transcarpathia and establish new electoral district borders in accordance with the law. With regard to the law infringement the Presidium of the Transcarpathian Hungarian Cultural Association adopted a statement which was sent to the OSCE, the European Parliament as well as to the United Nations Committees on Minorities.
95. Based on the Statement of the KMKSZ the Central Election Commission's decision is a gross violation of Article III/18/2/3 of the Law on Parliamentary Elections which apart from trampling of minority rights also means the degradation of the minority into second-class citizens. According to the Statement a prerequisite for the creation of the European democratic rule of law is not only to lay down rights promoting the protection and survival of minorities, but also their implementation in practice.
96. In spite of the submitted applications no Hungarian majority electoral district was established. Both the Central Election Commission and the Kyiv Administrative Court of Appeals have rejected the protest submitted to them with reference to formal reasons.

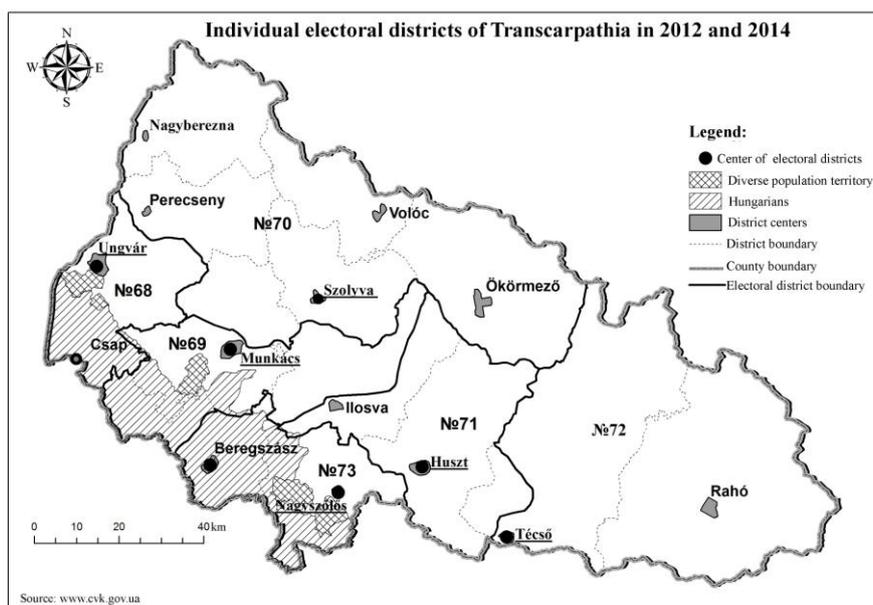
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<sup>33</sup> ЗАКОН УКРАЇНИ Про вибори народних депутатів України Верховна Рада України.

97. 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 shall take into account the recommendations of the Council of Europe.

**Individual electoral districts of Transcarpathia in 1998**





## Article 16

98. Reorganisation of public administration has been on the agenda in Ukraine for years and the decentralization process has begun. The Congress of Local and Regional Authorities of the Council of Europe also supports the Ukrainian decentralization process. Similarly, its Resolutions and Recommendations<sup>34</sup> on special-status regions emphasize that the application of the special-status model can contribute to conflict prevention and their dissolving. The two International Conventions on Minority Protection adopted within the framework of the European Council and ratified by Ukraine oblige the country to take into account the minority population ratio when drawing administrative border lines. With regard to the Framework Convention for the Protection of National Minorities, the state should refrain from taking measures which alter the proportions in areas inhabited by persons belonging to national minorities and are aimed at restricting their rights and freedoms resulting from the principles enshrined in the Framework Convention. The European Charter for Regional or Minority Languages supports the requirement that calls to respect the geographical area of minority languages, that is, the States should refrain from changing the administrative boundaries in a way that shall negatively affect regional or minority languages.<sup>35</sup>

99. The Law of Ukraine "On Voluntary Association of Territorial Communities"<sup>36</sup> adopted as part of the decentralization processes launched by the Ukrainian Parliament, states that during the restructuring ethnic and historical specificities of the regions should be regarded however, the Regulation related to its legislative implementation (Government Resolution) does not include directives for ethnic considerations.<sup>37</sup> This does not comply with the law and adversely affects national minorities.

<sup>34</sup> Resolution 361 (2013), and 346 (2013) on regions and territories with special status in Europe by the Congress of Local and Regional Authorities of the Council of Europe.

<sup>35</sup> Article 7, point b of the European Charter for Regional or Minority Languages.

<sup>36</sup> Закон України «Про добровільне об'єднання територіальних громад». ВР України; Закон від 05.02.2015 № 157-VIII) Стаття 4. 4) при прийнятті рішень щодо добровільного об'єднання територіальних громад беруться до уваги історичні, природні, етнічні, культурні та інші чинники, що впливають на соціально-економічний розвиток об'єднаної територіальної громади.

<sup>37</sup> <http://www.minregion.gov.ua/regional-dev/reformuvannya-miscevogo-samovryaduvannya-ta-teritorialnoyi-organizaciyi-vladi-v-ukrayini-643805/zakonodavchi-akti-shvaleni-kabinetom-ministriv-ukrayini-275073/postanova-kabinetu-ministriv-ukrayini-vid-8-kvitnya-2015-r--n-214-pro-zatverdzhennya-metodiki-formuvannya--spromozhnih-teritoria-345132/>

100. In view of the multi-ethnic composition of Ukraine, and the fact that the country has more historically specific regions, we consider it important to take into account in the process of decentralization the ethnic particularities and historical traditions of the regions. It requires the creation of such administrative units during the planned administrative reform, which largely correspond to ethnic and cultural relations, the subsidiarity principle and citizens' interests. It is important that the national minorities also might be able to represent their interests in the decision-making bodies. In accordance with European practices the local communities, nationalities should have the right of self-governance.
101. According 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.”
102. In this respect, 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.
103. Resolution 1985 (2014) of the Parliamentary Assambley 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 is possible to develop such an administrative unit in Transcarpathia, which will support the survival of the Hungarian minority as well as its identity and contribute to language and culture preservation.