



THE RIGHT TO EDUCATION  
IN MINORITY LANGUAGES

Central European traditions  
and the case of Transcarpathia



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# THE RIGHT TO EDUCATION IN MINORITY LANGUAGES

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and the case of Transcarpathia

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This publication contains excerpts from laws that regulate the right to education in the mother tongue of minorities in the practice of those states to which the territory of modern Transcarpathia belonged from 1867 until the declaration of Ukraine's independence. Also cited are legislative acts of sovereign Ukraine, which granted the right to representatives of national minorities to study in their mother tongue (first language). It also discusses how the language of education matters in neighboring countries, namely, Slovakia, Hungary and Romania. The right to study in one's mother tongue was provided by all the states that possessed the territory of modern Transcarpathia for 150 years. The first and only exception is Article 7 of the Law of Ukraine "On Education" of September 5, 2017, which maintains the right to receive education in the mother tongue for members of national minorities exclusively in pre-school and primary education. Texts are provided in the original language and in English translation.

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## INTRODUCTION

Transcarpathia (in Ukrainian: Закарпатська область, Zakarpattia Oblast) is the westernmost region of Ukraine. It borders with four EU member-states to the west and south (Poland, Slovakia, Hungary and Romania), while to the north and east, its neighbors are the Ukrainian counties of Lviv and Ivano-Frankivsk. The territory with a current population of nearly 1.2 million people is bordered by the Carpathian Mountains to the north-east, and the river Tisza to the south. The region has varying names, according to whether we see it from the west/south (Subcarpathia), or from the north/east (Transcarpathia; this is the official name of the region).

In today's Transcarpathia, there are numerous ethnicities and languages which have been traditionally co-existing. The 20<sup>th</sup> century history of this area is full of changes in state affiliation:

### The status of the Transcarpathian region in the twentieth century and today

<b>State affiliation</b>	<b>Period</b>
Kingdom of Hungary in the Austro-Hungarian Monarchy	1867–1918
Czechoslovak Republic	1919–1939
Carpatho-Ukraine	1938–1939
Kingdom of Hungary	1939–1944
Ukrainian SSR in the Soviet Union	1945–1991
Ukraine	From 1991

Transcarpathia became a separate political region in the 20<sup>th</sup> century as part of Czechoslovakia in the interwar period, part of Carpatho-Ukraine and the Kingdom of Hungary for a subsequent short interval, part

of the Soviet Union and the Ukrainian SSR after World War II, and part of independent Ukraine since 1991. Due to these changes in state affiliation, not only the country borders but the capitals and official languages changed as well.

The purpose of this book is to highlight the laws of the states mentioned above defining the right to minority language education in the period when Transcarpathia belonged to them. Furthermore, we show how the issue of the language of instruction was regulated by Ukraine in the first 26 years of its independence (from 1991 to 2017), and then we quote Article 7 of the new Law on Education, adopted by the Supreme Council of Ukraine on September 5, 2017, which applies to the language of instruction. Following the historical overview, we outline the current mother tongue medium education practices of three neighboring countries of the region which are all member states of the European Union (Slovakia, Hungary and Romania). Excerpts from the cited laws are first published in the original language and then in English.

It is clearly visible from our book that the right to mother tongue medium education for minorities was guaranteed by all states between 1868 and 2017, until the adoption of the new Ukrainian Law on Education. The reader can also see that provision for minority education in the mother tongue is a well-established practice in Central European states neighboring Transcarpathia – just like in the historic legal instruments. Slovakia, Hungary and Romania guarantee the right to mother tongue medium education to minorities living in their territories, including members of the Ukrainian national minority.

With this book we also aim to get the reader closer to an understanding of the positions of the parties to the

dispute surrounding Article 7 of the new Law on Education in Ukraine. Since the Supreme Council of Ukraine passed the Law on Education of Ukraine (Закон України «Про освіту») on September 5, 2017 and it came into force on 28 September, its Article 7 has been in the centre of disputes both within Ukraine and internationally. As it is shown in this volume, the core of the tension is that for the people of today's Transcarpathia the laws of every state concerned had provided two basic language rights in the past 150 years: (1) the right to have mother tongue education as a teaching language and (2) the choice of the language of instruction. However, with Article 7 of Ukraine's new education law, Ukrainian lawmakers practically codified the exclusivity of the Ukrainian language in the field of education. Although the right to mother tongue medium education for indigenous peoples is provided until the end of secondary education, but only in communal<sup>i</sup> institutions (not in state schools) and only along with the state language. For national minorities the right to education in the mother tongue is ensured by the new law only at the level of pre-primary and elementary school (grades 1–4). According to the law, members of national minorities can study “one or more disciplines”<sup>ii</sup> in their mother tongue from the 5<sup>th</sup> grade only (along with the state language); other subjects are taught in the state language (Ukrainian) exclusively.

Article 7 on the language of instruction of the Law on Education of Ukraine, adopted in 2017, is debated at three levels:

1) Representatives of Ukraine and many national minorities living in the country (including Hungarians

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

<sup>ii</sup> Quote from Article 7 of the Law of Ukraine On Education.

and Romanians who represent a significant ratio in Transcarpathia);

2) Kyiv and some neighboring states (e. g. Hungary, Romania);

3) Ukraine and international organizations such as the Council of Europe, the OSCE and the Venice Commission.

This small volume cannot have the purpose and task to resolve and decide this complex legal and diplomatic dispute. We just want to show that ensuring the right to education in the mother tongue is a long-established precedent for people living in Transcarpathia. The excerpts selected from the legal texts published in the original language as well as in English translation clearly show that the right of national minorities to mother tongue medium education was already ensured almost exactly 150 years ago, in the Kingdom of Hungary, at the time being part of the Austro-Hungarian Monarchy, in Acts No. XXXVIII and XLIV of 1868. This right later became part of the Treaty of Paris that ended World War I, and then was incorporated by the domestic legislation of nation states that were formed after World War II. In the aftermath of World War II, the international mechanism for the protection of national minorities by the League of Nations was abolished, but the Soviet Union – where Transcarpathia belonged after 1945 – also ensured the right to education in the mother tongue. The right to mother tongue medium education was guaranteed by the Soviet Federal Constitution and the Education Act. This right was also included in the constitution and educational law of the Ukrainian Soviet Socialist Republic, as part of the Soviet Union.

It is important to note, however, that in everyday practice states have unfortunately not always and not fully ensured the rights laid down in international

conventions and their own legislation in the field of mother tongue education. Nevertheless, that this right was codified in the constitutions, laws and regulations is an important legal fact. The precedential value of the tradition is indicated by the fact that in the first 25 years of Ukraine's sovereignty – the country became independent in 1991 –, the right to mother tongue medium education was guaranteed for minorities, but since 2017 the new Law on Education has significantly limited the right and possibility of education in minority languages.

We would like to draw the attention to the debate on the interpretation of a specific provision (c. f. Article 53 of the Constitution of Ukraine and Article 6 of the Act on National Minorities). In the text “learning the mother tongue *or* learning in the mother tongue” the interpretation of the conjunction ‘*or*’ is highly debated. It is not clear who is to decide (the state or the citizen) about the right of minorities to: (a) study in their mother tongue, or (b) learn the mother tongue only as a subject. Based on the legal instruments cited in our volume, it can be seen that the states which Transcarpathia belonged to and – before the adoption of the 2017 Law on Education – the independent Ukrainian state used to give the right to choose to citizens. From 1868 until now, the laws of the states concerned had interpreted the principle of equality of rights in such a way that every citizen had the right to learn in their mother tongue as the teaching language. However, Article 7 of the new Ukrainian Law on Education, adopted in 2017, demonstrates that the lawmakers of independent Ukraine interpret the equality of citizens' rights by providing everybody the right to learn in the state language. However, this kind of interpretation is contrary to the traditions of the past 150 years in Transcarpathia.

The political will to narrow the scope of the right to mother tongue medium education is not only contradictory to the historical traditions, but also to the Constitution of Ukraine. Article 22 of the Constitution reads as follows:

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

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

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

Ukraine is undergoing its most serious crisis of its history. In addition to political and economic troubles it has to deal with a military conflict as well. In such a tense situation our aim cannot be to intensify linguistic and ethnic conflicts, but to achieve consolidation and peace. We are convinced that preserving the ethnic, cultural and linguistic diversity of Ukraine and creating mutual respect will bring us closer to peace. We encourage the political elite of Ukraine to ensure that, in line with historical traditions and international norms, persons belonging to national and ethnic minorities have their rights guaranteed and adequate opportunities ensured as regards receiving education in a minority language (in both public and private educational institutions). We believe that improving the standard and efficiency of the education of Ukrainian as state language in the schools of national minorities can be achieved through an education system where the language of instruction is the mother tongue of children, and the state language is taught at a high level by specially trained bilingual professionals,

using modern curricula, textbooks and methods. Thus, we encourage the Ministry of Education and Science of Ukraine to incorporate the best modern practices in teaching foreign languages into the methodology of teaching the state language. We think that the state should promote the teaching of both the regional or minority languages and the state language. We believe that the preservation of the rights of minorities to education in their mother tongue is a little step forward towards the consolidation of society, peace and reconciliation. Respecting laws guaranteeing the use of regional and minority languages in education is a common interest of the Ukrainian state, the majority society and minority communities: compliance with laws is an important step towards the rule of law and a functional democracy. With this little book, our aim was to highlight this.

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