

Four Language Laws of Ukraine

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Abstract

Following the Soviet Union's dissolution, Ukrainian nation building was aided by the system of institutions inherited from the USSR, but made difficult by the Russian community in Ukraine which became a minority overnight. This presence has been felt primarily in Ukrainian-Russian language struggles. Some researchers and specialists have repeatedly pointed out that the question of languages is heavily politicised in Ukraine. The fact that it is not clearly settled can lead to the emergence of language ideologies as well as to conflicts of ethnic groups and languages. It is no coincidence that in Article 6, the Law on National Security regards the settling of the language issue as a priority among the country's national interests. Through the comparative analysis of four linguistic rights documents, this article shows how between 1989 and 2014, the Ukrainian political elite attempted to maintain social equilibrium through introducing legislation aimed to regulate language use.

Keywords

Ukraine – nation building – language law – state language – Ukrainian-Russian language struggles – regional or minority languages

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1 Introduction

After the dissolution of the Soviet Union, Ukrainian nation building was aided by the system of institutions inherited from the USSR (relatively clearly marked inner and outer borders, a parliament, ministries, representation in the UN, etc.), but, at the same time, made difficult by the Russian community living in Ukraine, which became a minority overnight.¹ The presence of the sizeable Russian community has been felt primarily in the Ukrainian-Russian language struggles. Some researchers² and the specialists of international organisations³ have repeatedly pointed out that the question of languages is heavily politicised in Ukraine, and the fact that it is not clearly settled can lead to the emergence of language ideologies as well as to conflicts of ethnic groups and languages. It is no coincidence that the Law on National Security⁴ regards, in Article 6, the settling of the language issue as a priority among the country's national interests.

- 1 R. Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge University Press, Cambridge, 1996) p. 17.
- 2 V. Stepanenko, 'Identities and Language Politics in Ukraine: The Challenges of Nation-State Building', in F. Daftary and F. Grin (eds.), *Nation-Building Ethnicity and Language Politics in Transition Countries* (Local Government and Public Service Reform Initiative – Open Society Institute, Budapest, 2003) p. 121; R. Lozyns'kyi, *Мовна ситуація в Україні* [Linguistic situation in Ukraine] (Видавничий центр ЛНУ імені Івана Франка, Львів, 2008) p. 436; A. Pavlenko, 'Multilingualism in Post-Soviet Countries: Language Revival, Language Removal, and Sociolinguistic Theory', 11:3–4 *The International Journal of Bilingual Education and Bilingualism* (2008) p. 275; S. Shumlianskyi, 'Conflicting abstractions: language groups in language politics in Ukraine', 201 *International Journal of the Sociology of Language* (2010) p. 138; I. Ulasiuk, 'The Ukrainian Language: what does the future hold? (A Legal Perspective)', in A. Milian-Massana (ed.), *Language Law and Legal Challenges in Medium-Sized Language Communities. A Comparative Perspective* (Institut d'Estudis Autònoms, Barcelona, 2012) p. 47; A. Zabrodskaia and M. Ehala, 'Inter-ethnic processes in post-Soviet space: theoretical background', *Journal of Multilingual and Multicultural Development* (2013) pp. 1–2.
- 3 *Assessment and Recommendations of the OSCE High Commissioner on National Minorities on the Draft Law on Languages in Ukraine*, № 1015–3. The Hague, 20 December 2010, online at <http://w1.ci.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=38474>, visited on 26 June 2016; *Opinion on the Draft Law on Languages in Ukraine*. Adopted by the Venice Commission at its 86th Plenary Session (Venice, 25–26 March 2011), online at <[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2011\)008-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2011)008-e)>, visited on 26 June 2016; *Ukraine: UN Special Rapporteur urges stronger minority rights guarantees to defuse tensions*. Geneva, 16 April 2014. <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14520>>, visited on 26 June 2016.
- 4 *See Закон України "Про основи національної безпеки України"* [The Law of Ukraine "On National Security of Ukraine"] № 964-IV/2003, online at <<http://zakon4.rada.gov.ua/laws/show/964-15>>, visited on 13 June 2016.

The aim of the present article, through the comparative analysis of four linguistic rights documents, is to show how the Ukrainian political elite attempted to maintain, between 1989 and 2014, the social equilibrium through introducing legislation aimed to regulate language use.

2 Language Laws in Ukraine (1989–2014)

We will compare Ukraine's four language laws:

- Law on Languages in the Ukrainian Soviet Socialist Republic (1989–2012).⁵
- Law on Ratification of European Charter for Regional or Minority Languages (2003–).⁶
- Law on the Principles of the State Language Policy (2012–).⁷
- Law on the Development and Use of Languages in Ukraine (draft–2012/2014).⁸

By comparing these it will be possible to identify the main directions of Ukrainian language policy in the period between 1989 and 2014, and see why all parties – the speakers of Ukrainian, Russian, and of other languages of Ukraine – are dissatisfied with legislation regarding language.

2.1 *The 1989 Language Law (LL1989)*

The language law of 1989, passed before independence, constituted a compromise between Ukrainisation and the preservation of the status quo.⁹ According to Kulyk,¹⁰ the law equally assisted Ukrainian nation building and

5 Закон України "Про мови в Українській РСР" [The Law of Ukraine "On Languages in the Ukrainian SSR"] № 8312-11/1989, online at <<http://zakon4.rada.gov.ua/laws/show/8312-11>>, visited on 25 June 2016.

6 Закон України "Про ратифікацію європейської хартії регіональних мов або мов меншин" [The Law of Ukraine "On ratification of the European Charter for Regional or Minority Languages"] № 802-IV/2003, online at <<http://zakon4.rada.gov.ua/laws/show/802-15>>, visited on 25 June 2016.

7 Закон України "Про засади державної мовної політики" [The Law of Ukraine "On principles of state language policy"] № 5029-VI/2012, online at <<http://zakon2.rada.gov.ua/laws/show/5029-17>>, visited on 25 June 2016.

8 Закон України "Про порядок застосування мов в Україні" [The Law of Ukraine "On the Use of Languages in Ukraine"], online at <http://search.ligazakon.ua/l_doc2.nsf/link1/NT0332.html>, visited on 25 June 2016.

9 D. Arel, 'Language politics in independent Ukraine: Towards one or two state languages?', 23:3 *Nationalities Papers* (1995) p. 599.

10 V. Kulyk, 'Constructing common sense: Language and ethnicity in Ukrainian public discourse', 29:2 *Ethnic and Racial Studies* (2006) p. 310.

the continuing presence of the Russian language in many domains of life. However, Bilaniuk's¹¹ interpretation is that the Law on Languages took the "first legal steps towards de-Sovietization and independence of the country in 1991".

2.2 *The Law of Ukraine "On Ratification of European Charter for Regional or Minority Languages" (ECRML/UA)*

Ukraine ratified the European Charter for Regional or Minority Languages for the first time in 1999.¹² However, the law of ratification was repealed by the Constitutional Court of Ukraine (CCU) on 12 July 2000.¹³ After that several draft versions of the ratification law were developed. However, the next ratification of the Charter happened only on 15 May 2003. The ratification document was deposited with the president of the European Council, and the Charter came into force in Ukraine as of 1 January 2006.¹⁴

According to the statement of Ukraine's Ministry of Justice issued on 10 May 2006, the faulty translation of the Charter caused political, legal, and social problems in Ukraine.¹⁵ The European Council's expert report¹⁶ also mentions

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- 11 L. Bilaniuk, 'Gender, Language Attitudes, and Language Status in Ukraine', 32 *Language in Society* (2003) p. 50.
 - 12 Закон України "Про ратифікацію Європейської хартії регіональних мов або мов меншин, 1992 р." [The Law of Ukraine "On ratification of the European Charter for Regional or Minority Languages, 1992"] № 1350-XIV/1999. <<http://zakon4.rada.gov.ua/laws/show/1350-14>>, visited on 25 June 2015.
 - 13 I. Ulasiuk, 'The Ukrainian Language: what does the future hold? (A Legal Perspective)', in A. Milian-Massana (ed.), *Language Law and Legal Challenges in Medium-Sized Language Communities. A Comparative Perspective* (Institut d'Estudis Autònoms, Barcelona, 2012) pp. 36–37; 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." (справа про ратифікацію Хартії про мови, 1992 р.) [The decision of the Constitutional Court of Ukraine...], online at <<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=v009p710-00>>, visited on 25 June 2015.
 - 14 I. Csernicskó, 'The European Charter for Regional or Minority Languages by Ukraine', XII:2 *Acta Academiae Beregsasiensis* (2013) pp. 127–145.
 - 15 Юридичний висновок Міністерства юстиції щодо рішень деяких органів місцевого самоврядування (Харківської міської ради, Севастопольської міської ради і Луганської обласної ради) стосовно статусу та порядку застосування російської мови в межах міста Харкова, міста Севастополя і Луганської області [The legal opinion of the Ministry of Justice...], online at <<http://old.minjust.gov.ua/7477>>, visited on 25 June 2016.
 - 16 ECRML (2010) 6, online at <www.coe.int/t/dg4/education/minlang/Report/Evaluation-Reports/UkraineECRML_en.pdf>, visited on 25 June 2015.

(on its page 4) that Ukraine wants a new translation of the Charter made. This, however, has not happened to date.

2.3 *The Law on the Principles of the State Language Policy (LL2012)*

The Law on the Principles of the State Language Policy was passed after several attempts, with several political deals in the background, and amidst scandalous circumstances on 3 July 2012,¹⁷ and another long road led to its being signed by then Speaker of Parliament Volodymyr Lytvyn and President Yanukovich.¹⁸ Finally, it was published on 10 August 2012, in the official publication *Голос України* (Voice of Ukraine), thus coming into effect.¹⁹

2.4 *The Kravchuk's Draft (KD)*

On 21 November 2013, it became apparent that the president of Ukraine – a country heading towards state bankruptcy at the time – was not going to sign the free trade agreement or the association agreement with the European Union in Vilnius. The Ukrainian government opted for the very favourable Russian loan rather than the IMF loan, which would have brought unpopular and strict austerity measures threatening its power.

On 23 November protests for Ukraine's European integration started in Kyiv (Euromaidan). The protests organised in the city's main square were peaceful for a while and were called the Revolution of Dignity. On November 30 an unreasonably brutal use of force by the police propelled the lukewarm protests into a national movement. The parliamentary majority backing the president modified several laws on 16 January 2014, in order to limit people's right of assembly. This triggered the protests to escalate to uncontrolled violence which resulted in many casualties as well.²⁰ The Parliament repealed the laws of 16 January on 28 January, and Prime Minister Mykola Azarov resigned. On 22 February, Yanukovich fled the country.

A quick realignment occurred in the Parliament. Representing different parties than before, the same members of Parliament formed a parliamentary majority which repealed the language law on 23 February 2014, on the initiation

17 M. Moser, *Language Policy and the Discourse on Languages in Ukraine under President Viktor Yanukovich (25 February 2010–28 October 2012)* (iDidem-Verlag, Stuttgart, 2013).

18 Cs. Fedinec, 'Ukraine's Place in Europe and Two Decades of Hungarian-Ukrainian Relations', 1 *Foreign Policy Review* (2013) pp. 69–95.

19 *Закон України "Про засади державної мовної політики"* [The Law of Ukraine "On principles of state language policy"] № 5029-VI/2012. <<http://zakon4.rada.gov.ua/laws/show/5029-17>>, visited on 25 June 2015.

20 The casualties are remembered as "Heaven's Hundred Heroes" [Небесна сотня].

of Member of Parliament Vyacheslav Kyrylenko of the Fatherland party.²¹ Russia immediately announced that it would defend the Russian speaking minority of Ukraine and protect it from Ukrainian nationalism. On the territory of Crimea, which was transferred in 1954 as the Crimean Autonomous Republic from the Russian Federation to the Ukrainian Soviet Socialist Republic, military personnel from the Russian army bearing no insignia of their affiliation (called *little green men* 'зелені чоловічки' in popular discourse)²² appeared on the same day.

Temporarily filling the positions of both president and speaker of the Parliament, Oleksandr Turchynov assessed the situation and decided, on 27 February, not to sign the document that would have repealed the language law of 2012, which thus remained in force.

Instead of repealing the language law, Turchynov proposed that a new language law should be drafted,²³ and the Parliament decided to form a committee to draft such a law on 4 March.²⁴ Representatives of all parliamentary parties joined the 11-member committee, and it was headed by Ruslan Koshulynskyi, one of the deputy heads of the Parliament and representative of the far-right party "Freedom" [*Свобода*].

The parliamentary committee headed by Ruslan Koshulynskyi did not, in the end, produce a draft of a language law. In the 11 April session of the Parliament, Koshulynskyi officially announced that the committee would submit to Parliament the draft law proposed by Kravchuk in 2012.

3 A Comparison of the Laws

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

- 21 *Ukraine abolishes law on languages of minorities, including Russian*. Interfax, 23 February 2014, online at <http://rbth.co.uk/news/2014/02/23/ukraine_abolishes_law_on_languages_of_minorities_including_russian_34486.html>. The text of law: <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=45291>, visited on 10 June 2016.
- 22 On 16 March 2014, the population of the Crimean Peninsula expressed their wish in a referendum organised with Russian help to be joined to Russia, which annexed the peninsula in a treaty signed in Moscow on 18 March.
- 23 *Голова Верховної Ради України Олександр Турчинов доручив підготувати новий Закон України "Про мову"*, online at <<http://portal.rada.gov.ua/news/Novyny/Povidomlennya/88685.html>>, visited on 10 June 2016.
- 24 *Постанова Верховної Ради України "Про утворення Тимчасової спеціальної комісії Верховної Ради України з підготовки проекту закону про розвиток і застосування мов в Україні"* [Resolution of the Verkhovna Rada of Ukraine...] № 851-VII/2014, online at <<http://zakon4.rada.gov.ua/laws/show/851-18>>, visited on 10 June 2016.

- what languages they touch upon;
- how they define the status of the Ukrainian language;
- what status they give to the Russian language and the other minority languages;
- under what conditions they make the use of minority languages possible in regional and local offices of government and local administration;
- in what level administrative units they allow for the official use of minority languages;
- whether they require or only allow (under some circumstances) the official use of minority languages;
- whether they require public servants to have proficiency in minority languages of the region where they are working;
- whether they make it possible to avoid the use of the state language in situations where minority languages can be used in public offices;
- how they regulate education in the minority languages; and
- whether they make it possible to use the minority languages in symbolic contexts such as personal documents (ID cards, school certificates etc.).

LL1989 [3] and ECRML/UA [2] regulate the use of Ukraine's minority languages, while LL2012 [7.2] and KD [5.1] define the rights of the speakers of languages regulated by the law.²⁵ The difference between the two approaches is crucial since there are considerable differences between groups of the population by ethnicity, and in censuses a greater proportion of the population profess themselves to be of Ukrainian ethnicity than of Ukrainian mother tongue.²⁶

LL1989 protects the language of all national minorities in Ukraine, which is close to 130 languages.²⁷ ECRML/UA deals with the languages of 13 national minorities. LL2012 codifies the rights of speakers of 18 regional or minority languages in Ukraine. KD does the same with 17, leaving out Rusyn (Table 1).

25 In this section numbers given in square brackets refer to the article where the given law regulates a given point. For instance, [7.2] refers to Article 7, section 2.

26 I. Csernicskó, 'The linguistic aspects of the Ukrainian educational policy', 2:1 *ESUKA – JEFUL* (2011) pp. 75–91.

27 B. Bowring, 'International Standards and Obligations, and Ukrainian Law and Legislation', in J. Besters-Dilger (ed.), *Language Policy and Language Situation in Ukraine: Analysis and Recommendations* (Peter Lang, Frankfurt am Main, 2009) p. 84. According to the 2001 census, the representatives of more than 130 national minorities reside in Ukraine. I.F. Kuras and F. Pirozhkov (eds.), *First All-National Population Census: Historical, Methodological, Social, Economic, Ethnic Aspects* (State Statistic Committee of Ukraine and Institute for Demography and Social Studies, Kyiv, 2004) p. 99.

TABLE 1 *Languages covered by the four laws*

LL1989	ECRML/UA	LL2012	KD
All languages of national minorities in Ukraine, <i>i.e.</i> approximately 130 languages.	13 languages of national minorities: Russians, Belarusians, Moldavians, Crimean Tatars, Bulgarians, Hungarians, Romanians, Poles, Jews, Greeks, Germans, Gagauz, Slovaks	Mother tongue speakers of 18 regional or minority languages: Russian, Belarusian, Bulgarian, Armenian, Gagauz, Yiddish, Crimean Tatar, Moldavian, German, Greek, Polish, Romani, Romanian, Slovak, Hungarian, Rusyn, Karaim and Krymchak.	Mother tongue speakers of 17 regional or minority languages: Russian, Belarusian, Bulgarian, Armenian, Gagauz, Yiddish, Crimean Tatar, Moldavian, German, Greek, Polish, Romani, Romanian, Slovak, Hungarian, Karaim and Krymchak.

Whether a law protects the languages of national minorities or the rights of mother tongue speakers of specific languages makes a great difference. At the time of the 2001 census 5.54 million people professed to be of Ukrainian ethnicity but of Russian mother tongue. Thus, the proportion of the Russian minority in the population was 17.28 per cent, whereas that of people of Russian mother tongue much higher. The 5.54 million Russian mother tongue speaker Ukrainians are not part of the national minority, but based on native language they are part of the minority language speaker community.²⁸ The LL1989 and the ECRML/UA does not protect his/her rights (Fig. 1).

LL1989 [2], LL2012 [6] and KD [4] alike name Ukrainian as the only state language (while ECRML/UA does not name one at all). LL1989 assigns the Russian language the status of “the language which is used for communication between the peoples of the Soviet Union” [4]. The special status of Russian is

28 I. Csernicskó and V. Ferenc, ‘Education as an ideal means of achieving a nation state in Ukraine’, in J. Róka (ed.), *Concepts & Consequences of Multilingualism in Europe* (Budapest College of Communication and Business, Budapest, 2010) p. 330; I. Csernicskó, ‘The linguistic aspects of the Ukrainian educational policy’, 2:1 *ESUKA – JEFUL* (2011) p. 77; Gy. Fodor and I. Csernicskó, ‘Language Policy and Minority Rights in Ukraine’, in P. Balázs, S. Mytryaeva and B. Zákonyi (eds.), *Ukraine at Crossroads: Prospects of Ukraine’s Relations with the European Union and Hungary* (Lira, Budapest–Ungvár, 2013) pp. 52–60.

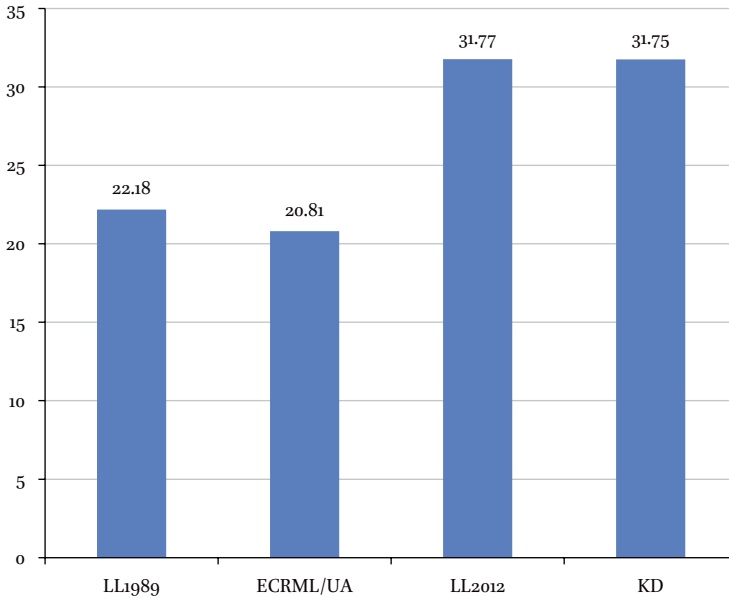


FIGURE 1 *Population of Ukraine covered by the four laws (in per cent)*

SOURCE: STATE STATISTICS SERVICE OF UKRAINE. <WWW.UKRCENSUS.GOV.UA/ENG/NOTICE/NEWS.PHP?TYPE=2&IDI=21>, VISITED ON 30 AUGUST 2016.

also emphasized by the 1996 constitution.²⁹ The other three documents do not assign a special status to Russian but treat it as one of the minority languages spoken in Ukraine, even though historically, from the point of view of its functions in the country, and based on the number of its speakers, Russian stands out significantly among Ukraine's minority languages, most of which have a relatively small number of speakers. The ECRML's Committee of Experts also pointed out the special status of Russian in Ukraine.³⁰

As Table 2 demonstrates, 22 per cent of the country's population belong to one of the ethnic minorities, while 33 per cent claim to speak a minority language. However, the Table also reveals that the vast majority (78 per cent)

29 V. Stepanenko, 'Identities and Language Politics in Ukraine: The Challenges of Nation-State Building', in F. Daftary and F. Grin (eds.), *Nation-Building Ethnicity and Language Politics in Transition Countries* (Local Government and Public Service Reform Initiative – Open Society Institute, Budapest, 2003) p. 117.

30 I. Ulasjuk, 'The Ukrainian Language: what does the future hold? (A Legal Perspective)', in A. Milian-Massana (ed.), *Language Law and Legal Challenges in Medium-Sized Language Communities. A Comparative Perspective* (Institut d'Estudis Autònomic, Barcelona, 2012) p. 38.

TABLE 2 *Minority citizens by ethnicity and native language in Ukraine*

Minorities by	People (%)	Of which:	People	Ratio in total population (%)	Ratio in total minority population (%)
ethnicity	10, 699, 209 (22.18%)	Russian	8,334,141	17.28	77.89
		other minorities	2,365,068	4.90	22.11
mother tongue	15, 663, 434 (32.47%)	Russian	14,273,670	29.59	91.13
		other minorities	1,389,764	2.88	8.87

SOURCE: STATE STATISTICS SERVICE OF UKRAINE, <WWW.UKRCENSUS.GOV.UA/ENG/NOTICE/NEWS.PHP?TYPE=2&ID1=21>, VISITED ON 30 AUGUST 2016.

of the members of these minorities are ethnic Russians. The ratio of Russian speakers is more dominant at 91 per cent. After all, it is not surprising that the minority issue in Ukraine is almost synonymous with the issue of the Russian community; other ethnic and linguistic groups are rather insignificant in comparison.

Within the population of Ukraine, people of Ukrainian and Russian ethnicity together constitute 95.1 per cent, whereas mother tongue speakers of Ukrainian and Russian together total 97.1 per cent.

According to the Constitutional Court of Ukraine's official interpretation, number 10-пн/99 and dated 14 December 1999, of Article 10 of the Constitution of Ukraine, the only state language of Ukraine is Ukrainian, and the state language is also an official language.³¹ At the same time, according to paragraph 2, point 1 of this interpretation, the fact that Ukraine has only one state language does not mean that only the Ukrainian language can be used as a public means of communication in official language functions: "In addition to the state language, the Russian language and other minority languages can also be used in the work of the local administrative organs of the executive branch, the organs

31 *Рішення Конституційного Суду України у справі за конституційними поданнями 51 народного депутата України про офіційне тлумачення положень статті 10 Конституції України щодо застосування державної мови органами державної влади, органами місцевого самоврядування та використання її у навчальному процесі в навчальних закладах України (справа про застосування української мови)* [The decision of the Constitutional Court of Ukraine...], online at <<http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=vo10p710-99>>, visited on 25 June 2016.

of the Crimean Autonomous Republic, and the local self-governments the Russian language and other minority languages can also be used as regulated by the effective laws of Ukraine.” Widening the range of the use of regional or minority languages does not in any way diminish the range of the use of the state language. As a state and official language of Ukraine, the Ukrainian language is used all over Ukraine in the work of organs of the legislative, executive and jurisdictional branches of administration, in international treaties, and in all educational institutions of all levels.³² The law allows for the presence of minority languages in the public sphere also under certain circumstances.

LL1989 allows for the use of the languages of national minorities in state offices in case the given national minority amounts to an absolute majority (*i.e.* higher than 50 per cent) within an administrative unit [3] – which is a difficult demographic benchmark to reach for a minority.³³ The use of the minority language is optional rather than obligatory even in this case. No implementation guidelines were ever made to accompany this law, however, so this regulation is difficult to apply.

According to LL2012, regional or minority languages can be used in state offices and local government offices if their members constitute at least 10 per cent of the population of the administrative unit [7.3]. In these cases, the law makes it obligatory to use the minority language in oral and written dealings between office workers and citizens. Local governments are required to publish their resolutions in the minority language as well as in Ukrainian [7.7, 10–11].

KD wished to raise the 10 per cent benchmark of LL2012 to 30 per cent [5.2], without the automatism involved in the application of the law. If the proportion of the speakers of a minority language in an administrative unit is over 30 per cent, a group of initiators have to collect the signatures of 30 per cent of the population to request that the law be applied. The collected signatures have to be sent to the county government, which in turn presents the request of the local government to the Parliament. The minority language is allowed to be used instead of the state language in local state offices only if the Parliament approves each request individually.

32 M. Tóth and I. Csernicskó, *Научно-практический комментарий Закона Украины об основах государственной языковой политики (с приложениями)* [Scientific-practical commentary on Ukraine’s Law on Principles of State Language Policy] (BOO Правозащитное общественное движение «Русскоязычная Украина», Киев, 2013) pp. 17–19.

33 B. Bowring, ‘International Standards and Obligations, and Ukrainian Law and Legislation’, in J. Besters-Dilger (ed.), *Language Policy and Language Situation in Ukraine: Analysis and Recommendations* (Peter Lang, Frankfurt am Main, 2009) p. 85.

ECRML/UA does not define a demographic benchmark. Instead, it allows the use of regional or minority languages in the work of local or regional authorities where the number of regional or minority language speakers justifies this [4c] (Table 3).

ECRML/UA also does not define the local or regional authorities that can use the regional or minority languages. LL1989 [3] and LL2012 [1] precisely determine the levels of administrative units (county 'область', district 'район', town, and village) where minority languages can be used. No matter that the proportion of Russian mother tongue speakers in Ukraine is 29.59 per cent, according to LL2012, on the national level the only state and official language is Ukrainian. KD would limit the range of use of the minority languages: it would only allow their use on the local level (but not on the level of county or district), and only if certain conditions are met [5.2] (Table 4).

In order for minority languages to be used in the work of local governments, however, administration officials have to have proficiency in these languages. LL1989 requires that the administration officials of the state have proficiency in Ukrainian and Russian. In addition, in those regions where national minorities constitute a majority, they have to know the language of the minority to the extent to be able to carry out their work [6]. In ECRML/UA Ukraine undertook appointing, in regions where regional or minority languages are spoken, administration officials who had proficiency in these, as much as possible [4c].

TABLE 3 *Demographic threshold for the use of minority languages*

LL1989	ECRML/UA	LL2012	KD
If the ratio of the national minority exceeds 50%.	Does not define a demographic benchmark.	If the native speakers of a regional or minority language meets a 10% threshold.	If the native speakers of a regional or minority language meets a 30% threshold.

TABLE 4 *In what level administrative units they allow for the official use of minority languages*

LL1989	ECRML/UA	LL2012	KD
County, district, town, and village.	Does not define.	County, district, town, and village.	Only local level: town, village.

LL2012 [11.3] and KD [9.3] do not unequivocally require administration officials to have proficiency in minority languages, only to use them (under certain circumstances).

The 1999 resolution of the Constitutional Court requires the obligatory use of Ukrainian in the work of state administration and local governments in the entire territory of Ukraine. After ECRML/UA and LL2012 were passed, a frequently used argument was that regional and minority languages were displacing the state language from administrative offices. However, all the analysed laws emphasise in several articles that the use of the state language is compulsory in the work of jurisdiction, the executive branch, local governments and education.

According to LL1989 [25] and LL2012 [20], the choice of language in education is an inalienable right; the latter guarantees education in the mother tongue at all levels of education from preschool to higher education. According to ECRML/UA, only those minority students are provided the right of education in their mother tongue whose family requests this and only if there is a sufficient number of students to form a class [4a]. According to KD, non-state educational institutions can decide about their language of instruction themselves [17.3]. Educational institutions run by the state can use a language other than Ukrainian as the language of instruction only in places where the proportion of mother tongue speakers of that minority language is over 30 per cent and where the use of the minority language has been approved by the Parliament [17.1]. According to KD, then, no state run school using Russian as a language of instruction can exist in the capitol Kyiv, since the proportion of Russian speakers there was 25.27 per cent at the time of the 2001 census.

What languages can be used for personal identification documents is an issue that ECRML/UA does not touch upon at all. According to LL1989, the ID card of Ukrainian citizens is bilingual: entries are made in the state language and Russian [14]. LL2012 requires that personal documents should have entries made in Ukrainian; in addition to that, at the special request of the individual, data can also be entered in one of the 18 regional or minority languages recognised by the law, whereas the document is in Ukrainian if the individual does not request otherwise [13.1]. According to KD, the language of personal documents is Ukrainian or another language prescribed by law [10.1].

4 The Regional Aspects of LL2012

Through LL2012, people with Russian as their mother tongue can use, in the territory of most administrative districts, their first language as a regionally

official language (Fig. 2). At the time of the 2001 census, Ukraine had 24 administrative districts (24 counties, the capital, Kiev, the Autonomous Republic of Crimea, and its capital, Sevastopol). Of the 24 counties (область), 11 have a higher than 10 per cent proportion of Russian as mother-tongue speakers, as do Kiev and Sevastopol. In the Autonomous Republic of Crimea speakers of both Russian and Crimean Tatar have a higher than 10 per cent proportion each. In Chernivtsy county speakers of Romanian exceed 10 per cent of the population. The proportion of Hungarians in Transcarpathia is 12.65 per cent.

LL2012 extends to linguistic communities of greatly varying sizes and statuses. As has been mentioned above, Russian speakers stand out considerably from among the various language communities (Table 2). However, there are substantial differences between the other linguistic minority groups in their size as well as the use of their language in the public sphere, education and cultural life. Only Crimean Tatars exceeded 200 thousand in number, and only the mother tongue speakers of Moldavian, Romanian, Hungarian, and Bulgarian exceeded 100 thousand. Speakers of Karaim and Krymchak total less than 100 (Fig. 3).

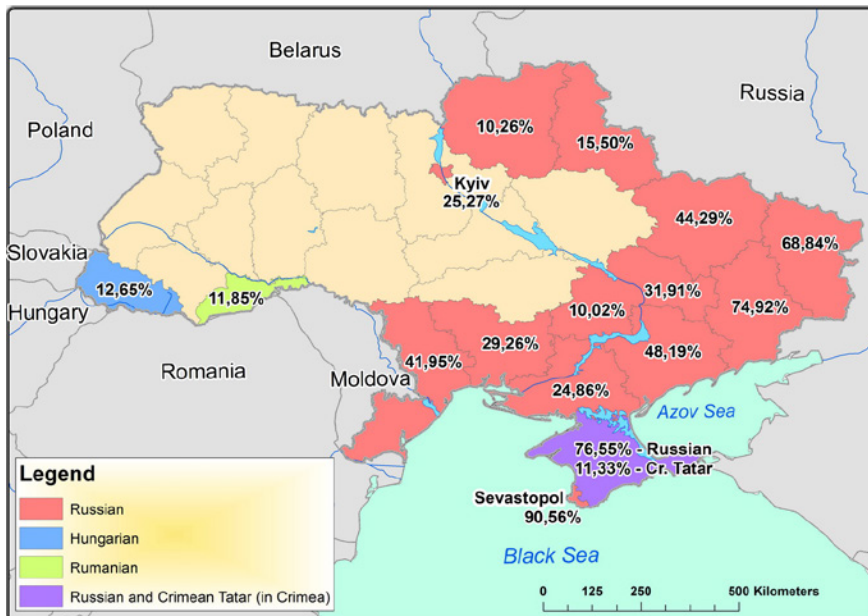


FIGURE 2 *Regions where the ratio of minority languages' native speakers exceeds the 10 per cent threshold*³⁴

34 Map created by István D. Molnár. Based on the official database of the State Statistics Service of Ukraine, source: <www.ukrcensus.gov.ua/eng/notice/news.php?type=2&id1=21>, visited on 30 August 2016.

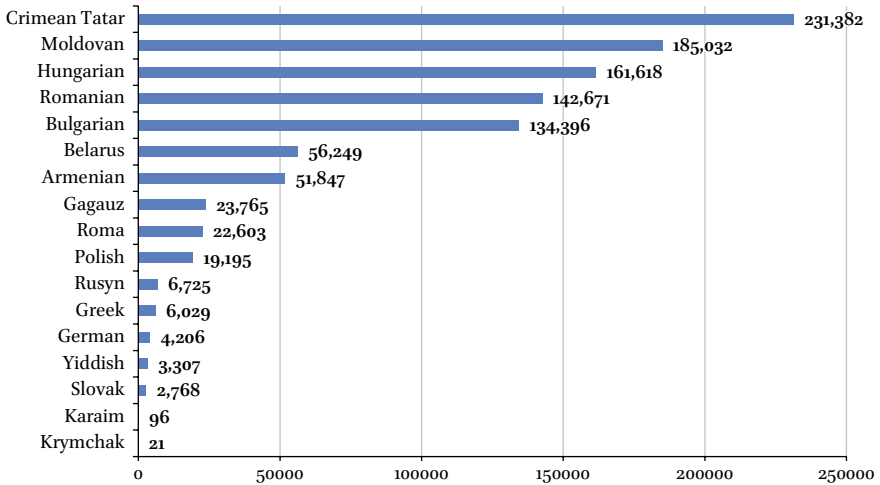


FIGURE 3 *Speakers of languages qualified as regional or minority languages in LL2012 according to the 2001 census (without speakers of Russian)*

SOURCE: STATE STATISTICS SERVICE OF UKRAINE. <WWW.UKRCENSUS.GOV.UA/ENG/NOTICE/NEWS.PHP?TYPE=2&ID1=21>, VISITED ON 30 AUGUST 2016.

If we consider the administrative levels of *raion* [район] and *cities of regional significance* [місто обласного підпорядкування] regarding which language groups exceed the 10 per cent proportion of population necessary for enforcing their language rights, we see that the proportion of Russians is over 10 per cent in several raions and cities (see Fig. 4).

In addition to Russian, in some raions mother tongue speakers of Bulgarian, Gagauz, Crimean Tatar, Hungarian, Romanian, and Moldavian also exceed the demographic threshold set by the language law (Fig. 5): speakers of Bulgarian do so in seven raions, those of Crimean Tatar in 15, of Gagauz in one, of Moldavian in eight, and of Romanian in seven. Speakers of Hungarian constitute at least 10 per cent of the population in four raions and one city of regional significance.

Transcarpathia is one of the most heterogeneous regions of the country. This region will serve as an example of how LL2012 provides language rights for speakers of several minority languages at the local level.

In the west and south Transcarpathia borders on four states of the European Union (Poland, Slovakia, Hungary and Romania) and two counties of Ukraine in the north and east (Lviv and Ivano-Frankivsk counties). In the region, the proportion of the speakers of seven of the 18 regional or minority languages

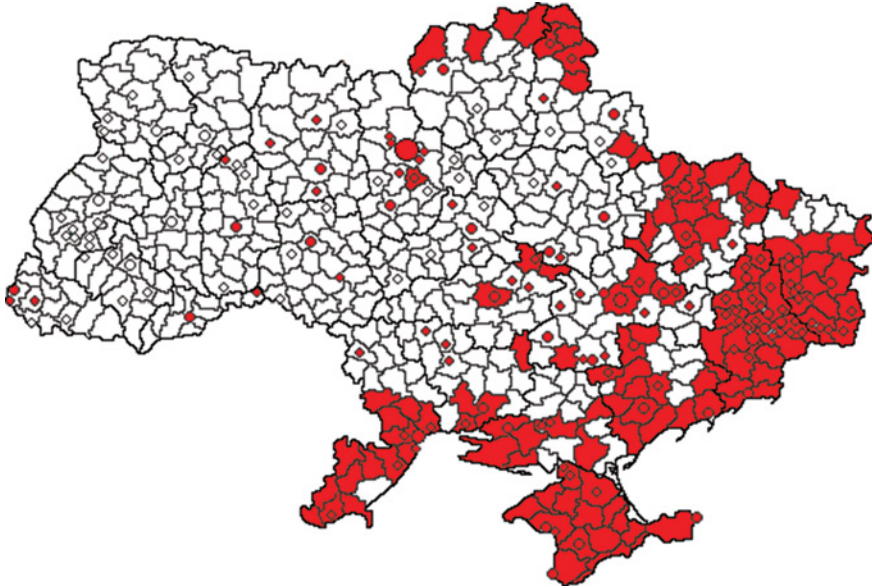


FIGURE 4 Raions and cities of regional significance where Russian speakers exceeded the 10 per cent threshold, according to the 2001 census³⁵

named in the language law exceed the 10 per cent threshold in the territory of at least one local government (Fig. 6).³⁶

Many in Ukraine are of the opinion that LL2012 serves to continue to secure Russian as a dominant language in the entire country – rather than to guarantee the rights of speakers of regional or minority languages.³⁷ In 2012 51 members of parliament requested that the Constitutional Court declare LL2012 unconstitutional based on the fact that its articles “modify the framework of the use of the Ukrainian language in Ukraine, ... contributing to the establishment of the dominance of regional languages over the state language”. On 7 July 2014, 57 members of parliament again sought the intervention of the Constitutional Court regarding LL2012. The Constitutional Court did not discuss

35 Map created by József Molnár. Based on the official database of the State Statistics Service of Ukraine, source: <www.ukrcensus.gov.ua/eng/notice/news.php?type=2&id1=21>, visited on 30 August 2016.

36 Map created by István D. Molnár. Based on the official database of the State Statistics Service of Ukraine, source: <www.ukrcensus.gov.ua/eng/notice/news.php?type=2&id1=21>, visited on 30 August 2016.

37 V. Kulyk, ‘Language Policy in Ukraine: What People Want the State to Do’, 27:2 *East European Politics and Societies* (2013) p. 303.

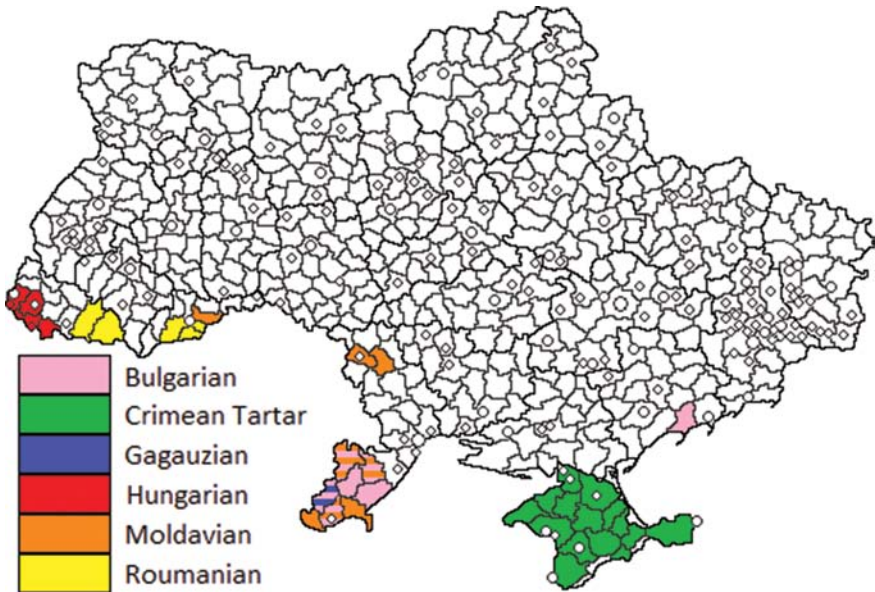


FIGURE 5 Raions and cities of regional significance where speakers of regional and minority languages exceeded the 10 per cent threshold, according to the 2001 census³⁸

either request in essence. This, however, does not stop the central, regional or local administrations from disregarding the regulations of LL2012 – if doing so is in their interest.

After LL2012 was passed, the county governments of five western Ukrainian counties (Lviv, Ivano-Frankivsk, Ternopil, Rivne, and Khmelnytskyi) passed resolutions declaring that the language law was not in effect in their territories. However, applying LL2012 does not impose any obligation at the county or raion level, since at these levels there are no minority languages whose mother tongue speakers constitute more than 10 per cent of the population.

A considerable portion of the Ukrainian political and societal elite is against not only Russian gaining official status nationally but also the official use of minority languages regionally, even though official bilingual language use at the regional level is not without precedent in the territory of Ukraine. Even though in Soviet times, in the territory of the Ukrainian Soviet Socialist Republic the Russian language was dominant, Ukrainian also enjoyed considerable

38 Map created by József Molnár. Based on the official database of the State Statistics Service of Ukraine, source: <www.ukrcensus.gov.ua/eng/notice/news.php?type=2&id1=21>, visited on 30 August 2016.

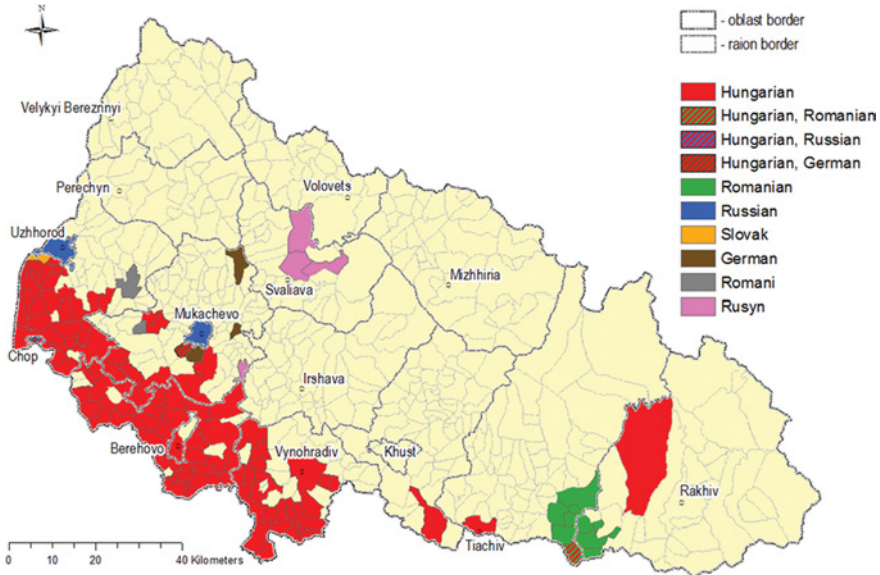


FIGURE 6 Localities where the proportion of speakers of at least one regional or minority language exceeds the 10 per cent threshold, according to the 2001 census in Transcarpathia

state support: it was co-official alongside Russian and used widely in education and the cultural sphere alike.³⁹

In 1924, a decree was passed in the Ukrainian Soviet Socialist Republic making it possible for raions of at least 10,000 inhabitants the majority of whose population belonged to a minority to be officially declared a minority raion. By 1929, a total of 26 minority raions (nine of them Russian, seven German, three Bulgarian, three Greek, three Jewish, and one Polish) were established.⁴⁰ In the territory of these administrative districts the minority language in question was used as the official language.⁴¹ The process of establishing minority administrative districts ended in 1930, and their dismantling began soon afterwards.⁴²

39 L. Bilaniuk, 'Gender, Language Attitudes, and Language Status in Ukraine', 32 *Language in Society* (2003) p. 66.

40 P.R. Magocsi, *Історія України* [The history of Ukraine] (Критика, Київ, 2007) pp. 490–491.

41 L. Rjaboshapko, *Правове становище національних меншин в Україні (1917–2000)* [The legal status of national minorities in Ukraine (1917–2000)] (Видавничий центр ЛНУ ім. Івана Франка, Львів, 2001) p. 82.

42 *Ibid.*, p. 84.

Constituting a part of Ukraine today, Transcarpathia was part of Czechoslovakia between 1919 and 1938 ('Podkarpatská Rus'), and of Hungary between 1939 and 1944 ('Kárpátalja'). Czechoslovak and Hungarian authorities codified Ukrainian (Rusyn) as an official language of the region alongside the respective state language.⁴³

5 Conclusion

Four language laws of the country from four different periods have been compared. It has been concluded that LL1989 and LL2012 brought about positive changes in codifying minority language rights. Both laws codified only one state language, Ukrainian, and required the obligatory use of Ukrainian in all formal domains. A part of the Ukrainian political and intellectual elite, however, considered the support for Ukrainian to be too weak, and that of the minority languages (especially of Russian) to be too strong. Because of this, ECRML/UA and KD define narrower rights for the speakers of minority languages than the previous laws. Taking away rights that were previously granted to minorities met with opposition on the part of Ukraine's minority communities, but at the same time also decreased the number of conflicts resulting from an inconsistent application of laws regulating minority language use. This inconsistent application laws, which is unacceptable in a state based on the rule of the law, made it possible for the language issue to become a political stumbling block of all the election campaigns. This, in turn, has politicised the language issue, provided it with various symbolic meanings, and made it a pretext of the eruption of the crisis in late 2013 and early 2014 in the Ukraine of political instability and on the verge of economic collapse.⁴⁴

LL1989 created relatively favourable conditions for the use of minority languages already before independence. The next law, ECMRL/UA brought about a considerable backward step in the field of language rights.⁴⁵ LL2012, again,

43 I. Csernicskó and V. Ferenc, 'Hegemonic, regional, minority and language policy in Subcarpathia: a historical overview and the present-day situation', 42:3 *Nationalities Papers* (2014) pp. 399–425.

44 I. Csernicskó, *Nyelvpolitika a háborús Ukrajnában* [Language policy in Ukraine in war] (Aurdor-Shark, Ungvár, 2016).

45 B. Bowring, 'International Standards and Obligations, and Ukrainian Law and Legislation', in J. Besters-Dilger (ed.), *Language Policy and Language Situation in Ukraine: Analysis and Recommendations* (Peter Lang, Frankfurt am Main, 2009) p. 69.

significantly increased the rights of the use of minority languages. However, KD greatly narrowed the language rights of the minorities not only compared to LL2012, but even compared to LL1989.

This tendency is very much fitting with the traditions of Ukrainian language policy and language planning. With some simplification, Goodman⁴⁶ characterises Ukrainian language policy as follows: “At the level of national language planning, Ukrainian history can be characterized by waves of ‘Russification’ or ‘Ukrainization’ ... [O]fficial language policy in Ukraine has generally focused on promoting the public use of either Russian or Ukrainian to the exclusion or denigration of the other.”

However, Ukraine is not a state based on justice and integrity in the Western sense, and, similarly to other laws, laws regulating language use are not applied consistently either.⁴⁷ There are things lacking in the implementation of LL2012 as well.⁴⁸ Even though it requires [10.1] that laws be passed in Ukrainian and translated into Russian and other regional or minority languages in Ukraine, even the official translations of the law itself into minority languages have not been made.

46 B. Goodman, ‘The Ecology of Language in Ukraine’, 24:2 *Working Papers in Educational Linguistics* (2009) p. 20.

47 V. Stepanenko, ‘Identities and Language Politics in Ukraine: The Challenges of Nation-State Building’, in F. Daftary and F. Grin (eds.), *Nation-Building Ethnicity and Language Politics in transition countries* (Local Government and Public Service Reform Initiative – Open Society Institute, Budapest, 2003) p. 118; B. Goodman, ‘The Ecology of Language in Ukraine’, 24:2 *Working Papers in Educational Linguistics* (2009) pp. 22–23; A. Polese, ‘Language and Identity in Ukraine: Was it Really Nation-Building?’, 3:3 *Studies of Transition States and Societies* (2011) p. 47; J. Besters-Dilger, ‘Сучасна мовна політика України та її оцінка європейськими установами’ [Ukraine’s modern language policy and its assessment by European institutions], 3 *Мова і суспільство* (2012) p. 176.

48 I. Csernicskó and V. Ferenc, ‘Transitions in the language policy of Ukraine (1989–2014)’, in M. Sloboda, P. Laihonon and A. Zabrodskaja (eds.), *Sociolinguistic Transition in Former Eastern Bloc Countries: Two Decades after the Regime Change* (Peter Lang, Frankfurt am Main, 2016) pp. 349–377; I. Csernicskó and E. Tóth, ‘Az állami nyelvpolitika alapjairól szóló ukrainai törvény gyakorlati alkalmazásának egy területe: a jogharmonizáció’ [An area of the implementation of Ukraine’s Law “On the principles of the state language policy”: legislative alignment] XIV *Acta Academiae Beregsasiensis* (2015) pp. 15–26; I. Csernicskó and E. Tóth, ‘Az ukrán nyelvtörvény gyakorlati alkalmazásának egy területe: az ügyintézés nyelve a helyi önkormányzatokban’ [An area of the implementation of Ukraine’s Law “On the principles of the state language policy”: language use in administration at the level of municipalities] 24:3 *Kisebbségkutatás* (2015) pp. 7–24.

According to Stepanenko,⁴⁹ “[t]he contradictory state language policy is formally oriented to the ‘one state, one language’ model but, at the same time, the authorities actually conduct a policy of ‘language balance’ between Ukraine’s two main languages”. In Polese’s view,⁵⁰ the inconsistent enforcement of language policy serves to avoid conflicts: “a partial lack of enforcement of laws or rules seems to prompt an easier acceptance of a Ukrainian identity even by those who might be unable to acknowledge all the identity markers proposed by the state”.

Despite the existence of a historical tradition of the official use of minority languages at the regional level and the several laws that allow for the official use of minority languages at the regional level, the political elite of the practically bilingual Ukraine is petrified of the codification of bilingualism at any level and in any form.⁵¹ For instance, Masenko⁵² characterises Ukrainian bilingualism as an “anomaly”, Shevchuk⁵³ as a “schizophrenic condition” and as “an illness”.⁵⁴

According to a proclamation issued at an event entitled “Language unifies us”, held in Kiev on 1 July 2015, “the Ukrainian language has to become a unifying factor for all the citizens of Ukraine, ... the state language is a factor of

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- 49 V. Stepanenko, ‘Identities and Language Politics in Ukraine: The Challenges of Nation-State Building’, in F. Daftary and F. Grin (eds.), *Nation-Building Ethnicity and Language Politics in transition countries* (Local Government and Public Service Reform Initiative – Open Society Institute, Budapest, 2003) p. 129.
- 50 A. Polese, ‘Language and Identity in Ukraine: Was it Really Nation-Building?’ 3:3 *Studies of Transition States and Societies* (2011) p. 43.
- 51 A. Pavlenko, ‘Multilingualism in Post-Soviet Countries: Language Revival, Language Removal, and Sociolinguistic Theory’, 11:3–4 *The International Journal of Bilingual Education and Bilingualism* (2008) p. 52.
- 52 L. Masenko, ‘Language situation in Ukraine: Sociolinguistic analysis’, in J. Besters-Dilger (ed.), *Language Policy and Language Situation in Ukraine: Analysis and Recommendations* (Peter Lang, Frankfurt, 2009) p. 101.
- 53 Y. Shevchuk, *Мовна шизофренія. Quo vadis, Україно?* [Linguistic schizophrenia. Quo vadis, Ukraine?] (Discursus, Івано-Франківськ, 2015).
- 54 Y. Shevchuk and H. Vlasjuk, ‘Двомовність як хвороба. Професор Колумбійського університету називає українську мовну ситуацію «мовною шизофренією»’ [Bilingualism as a disease: Columbia University professor evaluate’s Ukraine’s language situation as “linguistic schizophrenia”] *Портал мовної політики* 5 July 2015, online at <<http://language-policy.info/2015/07/dvomovnist-yak-hvoroba-profesor-kolumbijskoho-universytetu-nazyvaje-ukrajinsku-movnu-sytuatsiyu-movnoyu-shyzofrenijeyu/>>, visited on 25 June 2016.

unification and state building, without which there can exist no democratic Ukrainian state, nor a modern Ukrainian political identity”.

According to public opinion, the Canadian, Belgian, Swiss or Spanish solutions of the language issue would not work in Ukraine. Catalonia's secession efforts and the Flemish-Walloon disputes strengthen Ukrainian fears of the multilingual model. A member of the Ukrainian Constitutional Court between 2006 and 2015, Shyshkin is of the following opinion:

No officially bi- or multilingual country can serve as an example for any other state, there is no universalism here, nor can there be. Every state is unique in its own social existence. As far as the Ukrainian language in Ukraine is concerned, there is another factor, the postcolonial state ..., and because of this the comparison of the Ukrainian linguistic situation with any other – regarding the status of the state language, official language, a regional language or any other language that is spoken by ethnic groups in Ukraine – cannot be adequate with the status of any other state.⁵⁵

In light of all of this, it is not surprising that LL2012 does not provide a solution. The inconsistent enforcement of laws and the use of political strategizing have not brought about social peace but, instead, increased dissatisfaction with the language issue. The members of the two largest language communities, Ukrainian and Russian, see the situation of the two languages in cardinally opposite ways.⁵⁶ According to Taranenko,⁵⁷ “[t]he treatment of the present-day language situation and the language policy by pro-Ukrainian and pro-Russian intellectual and ideological elites is incompatible”. Efforts made to strengthen Ukrainian identity and the status of the titular language activated a mobilisation response on behalf of the minorities.⁵⁸ This resulted in a paradoxical situation: minorities are displeased with the guaranteed language rights, while the

55 V. Shyshkin, 'Мова як складник державотворення' [Language as an essential constituent part of nation-building], 2:3 *Мовознавство* (2013) pp. 229–230.

56 V. Stepanenko, 'Identities and Language Politics in Ukraine: The Challenges of Nation-State Building', in F. Daftary and F. Grin (eds.), *Nation-Building Ethnicity and Language Politics in Transition Countries* (Local Government and Public Service Reform Initiative–Open Society Institute, Budapest, 2003) pp. 109–135; B. Bowring, 'The Russian Language in Ukraine: Complicit in Genocide, or Victim of State-building?', in L. Ryazanova-Clarke (ed.), *The Russian Language Outside the Nation* (Edinburgh University Press, Edinburgh, 2014) pp. 56–78.

57 O. Taranenko, 'Ukrainian and Russian in contact: attraction and estrangement', 108 *International Journal of the Sociology of Language* (2007) p. 138.

elite of the titular nation fears for the current and future status of the Ukrainian language.⁵⁹ Korostelina⁶⁰ sees the struggle of identities and languages as a tension generating zero sum game which makes reaching a compromise impossible.

It is in this complex situation that a viable model of language policy needs to be found in order to arrive at a peaceful solution.

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- 58 I. Csernicskó and P. Laihonen, 'Hybrid practices meet nation-state language policies: Transcarpathia in the twentieth century and today', 35:1 *Multilingua* (2016).
- 59 O. Zaremba and S. Румаренко, 'Роль зовнішніх чинників у політизації мовних проблем' [The role of external factors in the politization of linguistic problems], in O. Maiboroda et al (eds.), *Мовна ситуація в Україні: між конфліктом і консенсусом* [Linguistic situation in Ukraine: between conflict and consensus] (ІПіЕНД ім. І. Ф. Кураса НАН України, Київ, 2008) p. 276.
- 60 K.V. Korostelina, 'Mapping national identity narratives in Ukraine', 41:2 *Nationalities Papers* (2013) p. 313.