

# 26 The Linguistic Human Rights Plight of Hungarians in Ukraine

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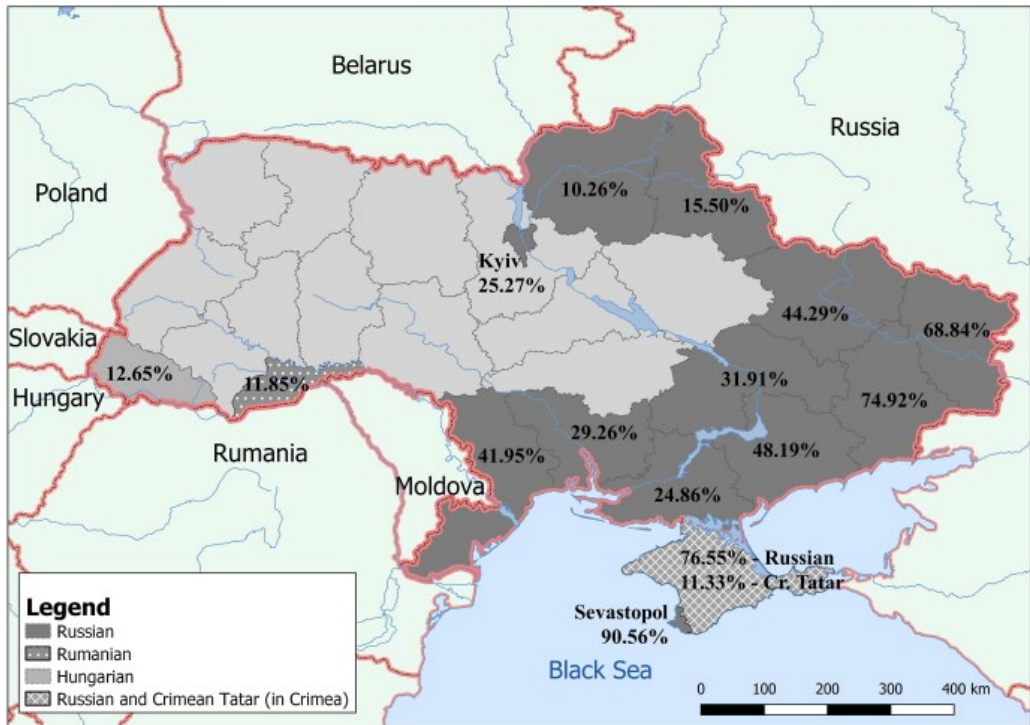
*NB. The writing of this chapter was finished several months before Russia attacked Ukraine on 24 February 2022.*

In a review article of multilingualism in post-Soviet successor states Pavlenko (2013, p. 263) stated that a new wave of scholarship ‘is beginning to ask new questions about post-Soviet multilingualism that were not asked in previous research, focused on language reforms’. In this article we will ask two such questions: (i) Can a State restrict such language rights of a minority that the minority has traditionally enjoyed while belonging to various states in different political systems? and (ii) Can a newly independent State repeal such rights of the minorities living in its territory as had been enjoyed by the now titular nation when they themselves were a minority earlier? We pose these questions by analysing the current situation of the Hungarian minority in newly independent Ukraine.

The plight of native speakers of Hungarian in Ukraine today can only be understood with a brief review of language policy in independent Ukraine. Following the dissolution of the Soviet Union and the birth of independent Ukraine in 1991, Ukrainian was made the single official, titular language. The over 30% of native speakers of Russian became a linguistic minority overnight. Ukraine ‘began transitioning from bilingual [Russian–Ukrainian] to monolingual policy across all public spheres’ (Pavlenko 2011, p. 38), with the result that Russian speakers and their supporters decried the new laws as a violation of their human rights. Local policy makers and their Western supporters ‘argued that accommodation of Russian speakers’ rights would endanger the rights of the titular languages’ (Pavlenko *ibid.*). During Soviet times Russian speakers in Ukraine could afford to be basically monolingual, and Ukrainian speakers were able to maintain their native language with the support of schools with Ukrainian as the medium of instruction. In Ukraine, titular language loyalty and maintenance is lower than, e.g. in post-Soviet Latvia, and there is a considerable shift to L1 Russian among ethnic Ukrainians (11.49% of ethnic Ukrainian citizens, over 5.5 million people declared Russian as L1 in 2001 vis-à-vis 16.57%, close to 8 million people with Russian ethnicity

and L1). Ukrainian and Russian are genetically close languages and Ukraine's 'population is predominantly bilingual', says Pavlenko (*ibid.*), hence communication is not an issue (Snyder 2018, p. 128). At the heart of the language conflict 'there was – and still is – language loyalty of ethnic Ukrainians'. In view of Pavlenko's (2011, p. 53) conclusion that '[Latvian and] Ukrainian language debates are primarily about nationhood, citizenship, foreign policy, distribution of social and economic resources, and political power', it was perhaps predictable that in 2014 Ukrainian–Russian language conflict was used as one of the pretexts for the Russian military intervention in Ukraine (Csernicskó 2017). On 12 October 2016 Russian president Vladimir Putin stated: 'We have been obliged to defend Russian speakers in the Donbass region' (Putin 2016).

Ukraine is a multilingual state *de facto*, but monolingual *de jure*. The decision makers of the country have recently provided ample proof of the maxim that 'depriving people of their human rights leads to conflict' (Phillipson and Skutnabb-Kangas 1995, p. 483). Since 2014 attempts to limit existing minority language rights have come in various shapes and sizes. The main goal of language laws has been the restriction of the use of Russian, or derussification – a process characterised as 'coercive and illiberal monolingualising policies' (Pavlenko 2011, p. 53) against the former colonisers. However, several smaller minorities have also become targets of the monolingual ethno-nationalist state. The use of other minority languages 'may have been affected as 'collateral damage' of the process of Ukrainisation as anti-Russian policies, but it is not less painful for the speakers of those languages (Roter and Busch 2018, p. 165).<sup>1</sup> Map 26.1 shows the regions



**Map 26.1** Regions where the ratio of minority languages' native speakers exceeds the 10% threshold (2001 census data). (Map created by István D. Molnár).

where the ratio of native speakers of minority languages exceeded 10% according to the latest census in 2001.<sup>2</sup>

We will now turn to one such smaller community: the Hungarians. The Hungarian community of Ukraine has been autochthonous for 1100 years in what is today Transcarpathia, the westernmost county (*oblast*) of the country, bordering on four member-states of the European Union: Poland, Slovakia, Hungary, and Romania. According to the latest (2001) census, there were 156 000 Hungarians in Ukraine. Almost half of them live in practically monolingual Hungarian communities, ‘and an additional 28 per cent live in settlements where they constitute an absolute or relative majority’ (Fiala-Butora 2020, p. 238). Over 75% of Hungarian pupils attend schools with Hungarian as the medium of instruction. The community has a comprehensive education system from nurseries up to a private university, financially supported by the Hungarian government (Cserniczkó and Orosz 2019). The region has belonged to six states in the last 150 years: Kingdom of Hungary in the Austro-Hungarian Monarchy (1867–1918), Czechoslovak Republic (1919–1938/1939), Carpatho-Ukraine (1939), Kingdom of Hungary (1939–1944), Ukrainian SSR in the Soviet Union (1945–1991), and Ukraine (1991–). Throughout a century and a half, between 1867 and 2017, the right to mother-tongue-medium (MTM) education in what is today Transcarpathia was guaranteed by all the six states to which the region was affiliated (Cserniczkó and Tóth 2019).

## 26.1 Language Laws in Ukraine

To understand the status of minority languages in Ukraine in 2021, a brief look at previous laws is necessary. In 1989, before independence, a Law on Languages (LL 1989) was passed in the Ukrainian Soviet Socialist Republic. It was a compromise between Ukrainisation and the maintenance of the existing status quo, the presence of the Russian language in many areas of life. As a condition for membership of the Council of Europe, in 1997 Ukraine ratified the Framework Convention for the Protection of National Minorities and later signed and ratified the European Charter for Regional or Minority Languages in 1999, but the law on the ratification of the Charter was repealed by the Constitutional Court of Ukraine in 2000 for formal reasons (Cserniczkó et al. 2020, pp. 25–26). In 2003, Ukraine ratified the Charter again (ECRML 2003). In 2012 the Kyiv Parliament passed a new language law (LL 2012) to replace the former LL 1989. Under certain conditions, all three Ukrainian laws (LL 1989; ECRML 2003, and LL 2012) allowed the use of minority languages in the public sphere, usually alongside the State language. LL 2012 allowed the use of minority languages, in private and in public, in the territory of regions, districts and municipalities where the proportion of native speakers of the respective language met the 10% threshold. Thus Russian, Hungarian, Romanian and Crimean Tatar could be used alongside the State language (Map 26.1). However, LL 2012 was repealed by the Constitutional Court in 2018 (Cserniczkó et al. 2020, pp. 30–32).

Since 2014 large parts of the Donetsk and Luhansk districts of eastern Ukraine have become a war zone due to Russian military intervention. The Crimean peninsula was annexed by Russia in violation of international law. The intensification of language policy measures may be connected to these developments. A series of laws passed between 2014 and 2020 ‘significantly restrict the right and possibility to use minority languages’ (Cserniczkó et al. 2020, p. 95).

Especially significant in this regard are the Law on Education, 2017 (LU 2017), the Law on Supporting the Functioning of the Ukrainian Language as the State Language (LL 2019), and the Law on Complete General Secondary Education, 2020 (LU 2020). Until the adoption of the LL 2017, Ukrainian laws defined the right to choose the language of instruction as an inalienable right of citizens. Article 7 of the LL 2017, Article 21 of the LL2019, and Article 5 of the LL2020 abolished the right of citizens to choose the language of instruction by stating that '[t]he language of the educational process in educational institutions shall be the State language'. The laws set up four categories of right holders, entitled to different amounts of MTM public education (Table 26.1).

As can be seen in Table 26.1, national minorities with a language that is official in the EU such as Hungarians and Romanians receive MTM education in the first four grades, but in grade 5 at least 20% of the classes must be taught in the State language, by grade 9 this must increase to 40%, and in grades 10–12 State-language-medium instruction must reach 60%. Crimean Tatars (with 231 382 native speakers in 2001), like Ukrainians, fare much better, and Russians fare much worse. Concerning the LU 2017, Skutnabb-Kangas (2019a, p. 69) has predicted: 'If implemented, the law will certainly cause human trauma, forced language shift and massive *linguistic genocide in education*'.<sup>3</sup> With speakers of non-EU languages (practically against Russians), the provisions of the law have been applied since 1 September 2020. Speakers of EU languages have been granted a postponement until 1 September 2023.

**Table 26.1** Percentage of mother-tongue-medium public education for various groups of Ukrainian citizens pursuant to Article 7, LL2017, Article 5, LL2019, and Article 5, LU2020.

	Grades 1–4		5th grade	9th grade	Grades 10–12	
Persons belonging to the majority	100	100	100	100	100	Ukrainians
Indigenous peoples (Ukrainian <i>корінні народи</i> ) <sup>a</sup>	100	100	100	100	100	Crimean Tatars
Minorities whose languages are official in the EU	100	80	60	40	40	Hungarians, Romanians
Minorities whose languages are not official in the EU	100	20	20	20	20	Russians

<sup>a</sup>On 1 July 2021 a new law on indigenous peoples of Ukraine was passed which defines the term 'indigenous peoples in Ukraine' (LU 2021). Before this law, the term was used without a definition in the Constitution of Ukraine, LL2019, LU2017 and LU2020. In the new law, one of the criteria defining an indigenous people is that it does not have a kin-state. There are only three indigenous peoples: Crimean Tatars (with 231.382 native speakers in 2001), Karaims (96 speakers) and Krymchaks (21 speakers). All three are in the Crimean Peninsula, which has been occupied by Russia since 2014. By this definition national minorities such as Hungarians or Romanians are not indigenous in Ukraine. In official English translations of Ukrainian laws and in the Venice Commission documents about these laws 'indigenous people(s)' is used in the Ukrainian sense, which is quite different from the sense used in this handbook.

Source: Brenzovics et al. (2020), p. 49.

LL 2019 represents a significant step back from LL 2012, even LL 1989. It promotes (protects) the use of the State language at the expense of the use of minority languages. For instance, Article 6 (1) stipulates that '[e]ach citizen of Ukraine is required to be proficient in the State language'. For historical reasons there were many people in Ukraine who did not speak the State language according to the 2001 census, 13.42% (6 472 794 persons). SS2019 regulates language use in the public sphere, administration of justice, education, media, culture, sport etc. (Csernicskó et al. 2020). In its opinion, Council of Europe's Venice Commission strongly condemned discrimination against national minorities on the basis of whether or not their mother tongue is an official language in the EU (CDL-AD (2017)030). The same position was emphasised in the opinion issued on 9 December 2019 concerning LL2019 (CDL-AD (2019)032).

## 26.2 Remarks on the Role of Education in Language Shift

Phillipson and Skutnabb-Kangas (1995, p. 500) have advanced that a Universal Declaration of Linguistic Human Rights should state, among other things, that 'any change of mother tongue is voluntary, not imposed'. Ukraine is one of the post-Soviet successor states whose language policies have been characterised by Pavlenko (2013, p. 266) as pursuing *intended language shift*.

Coercive educational policies can be implemented to reduce the number of minority students eligible for higher education. In 2008, passing an external independent exam in Ukrainian language and literature was made mandatory for students wishing to enter higher education, and it resulted in a dramatic increase (100% in a decade) of Hungarians excluded from higher education (Table 26.2).

Ukrainian census data from 2001 make it abundantly clear that lack of MTM education promotes language shift. Table 26.3 demonstrates that the overwhelming majority (91–95%) of the minorities with MTM education (Hungarians and Romanians) claim the same ethnicity as mother tongue. The percentages for those who have partial MTM education (Belarussians and Poles) are much lower, and the minorities without MTM education (Greeks and Jews) are mostly assimilated – fewer than 7% of ethnic Greeks claimed Greek and 93% claimed Ukrainian or Russian as their mother tongue.

If 'Mother tongue medium education enables [a minority] group to exist as a group' (Kontra et al. 2016, p. 224), then the 2017, 2019, and 2020 Ukrainian laws, if implemented, foreshadow linguistic genocide in education and planned language shift.

**Table 26.2** Percentage of examinees who failed the external independent exam in Ukrainian language and literature, hence did not qualify for higher education.

Year	2008	2009	2015	2016	2017	2018
All schools in Ukraine	8	9	8	9	9	14
Transcarpathian Hungarian schools	30	44	63	59	62	64

Source: Brenzovics et al. (2020), p. 38.

**Table 26.3** Ethnicity, native language, and mother-tongue-medium instruction data for six communities in Ukraine.

	<i>Number (by ethnicity)</i>	<i>Percentage within population of Ukraine</i>	<i>Native language and ethnicity the same</i>	<i>Do they have mother-tongue- medium education?</i>
Hungarians	156566	0.32	95.44	Yes
Romanians	150989	0.31	91.74	Yes
Belarusians	275763	0.57	19.79	Partly
Poles	144130	0.30	12.95	Partly
Greeks	91548	0.19	6.37	No
Jews	103591	0.21	3.10	No

Source: 2001 census data.

## 26.3 The International Reactions to this Planned Language Shift in Education

The LU2017 and the LL2019 do not comply with international minority rights norms ratified by Ukraine. The laws have narrowed existing rights, which violates Article 22 (3) of the Constitution of Ukraine, whereby the narrowing of rights is unconstitutional. When enacting new laws, it is prohibited to curtail existing rights. However, existing rights *are* curtailed, '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' (Csernicskó and Fedinec 2016, p. 579).

The question we would like to pose now is: How far can Ukraine go in failing to observe European and UN covenants? We know that 'Many states sign up for covenants and make no effort to implement them' (Phillipson and Skutnabb-Kangas 2017, p. 6). International covenants are often toothless when it comes to implementation, see Skutnabb-Kangas 2003, 2019b; the late UN Rapporteur on the Right to Education Katarina Tomaševski's (2005) 'behind-the-scenes account'; or the section titled 'The global system: human rights endtimes?' in Phillipson and Skutnabb-Kangas (2017, pp. 6–8).

As mentioned earlier, Ukraine has signed and ratified the European Charter. However, the provisions of the LL2019 'have virtually eliminated the possibility of using regional or minority languages (a term that is not applied in the Law) in social and public life. As a result, this law made it impossible to apply the Charter in Ukraine' (Brenzovics et al. 2020, p. 88).

In a detailed analysis of conflict prevention or human rights promotion, Fiala-Butora (2020, p. 258) states that 'Ukraine has long ignored the recommendations of the Council of Europe under the Framework Convention of National Minorities and the European Charter for Regional or Minority Languages' because international bodies responsible for enforcing international human rights norms have not put more pressure on the country. Despite criticism and recommendations of the Council of Europe's Venice Commission concerning the LL2017 and the LL2019, the Ukrainian government shows no sign of easing the restrictions.

In February and April 2018 Hungary blocked the meeting of the NATO–Ukraine Commission, arguing that it is impossible to support the country’s bid to join NATO after Ukraine adopted the controversial education law ‘brutally mutilating minority rights’. At the NATO summit in London in December 2019, the Hungarian foreign minister said ‘We ask for no extra rights to Hungarians in Transcarpathia, only those rights they had before’.<sup>4</sup> Hungary received criticism from other NATO members, which considered the issue of minority rights to be outside NATO’s remit. ‘Secretary General Jens Stoltenberg called upon the two parties to find a solution through negotiation, reconciling the protection of minority rights and Ukraine’s goal of promoting its national language’ (Fiala-Butora 2020, p. 245).

To us linguists, what has been causing serious diplomatic tensions and a headache in NATO could be fairly easily solved. By introducing mother-tongue-based bilingual education of the additive kind instead of subtractive Ukrainian-only education, Ukraine would avoid massive linguistic genocide in the education of some of its minorities, namely those with kin-states in the EU, and also many of its Russian speakers. From the point of view of foreign policy and security, such an educational policy would largely take the wind out of Russia’s sails because they could no longer claim that Russian speakers’ human rights are violated. As Skutnabb-Kangas (2019b, p. 1) has shown, the devastating results of submersion programs have been known since the mid-1700s, yet ‘these submersion programmes using the dominant language as the only or main language [of instruction] continue all over the world’.

## 26.4 Conclusion

We agree with Pavlenko (2013, pp. 267–268) that the European Charter was articulated for protection and promotion of languages used by traditional minorities (such as the Transcarpathian Hungarians in Ukraine). We also agree with her that the non-traditional Russian-speaking minorities (such as the Russian-speakers in Ukraine today) highlighted the need to dissociate concerns about language endangerment (*language rights*) from *speakers’ rights*, for instance the right of speakers of all languages to use their mother tongues. Mother-tongue-based bi- or multilingual education programs, rather than impatient nation-state projects, offer a good solution.

Should European international organisations remain passively complicit in the erosion of the Ukrainian education network in regional or minority languages, a precedent will be set, as a result of which the rights of minorities previously acquired in the legal system of the State they are citizens of can be curtailed at any time. States which are building homogeneous nation-states may then be encouraged by the Ukrainian example, may take similar steps, thus inevitably leading to new conflicts in Europe. In Ukraine, according to the Transcarpathian Hungarian lawyer Mihály Tóth (Lengyel 2020, p. 43), the consequences would bring chaos, discrimination, the marginalisation of the Hungarian language, and anti-Hungarian harassment and hate crimes.

As regards the two questions we posed in the first paragraph of this article, if the current laws are implemented, Ukraine will be restricting the rights of its minorities that they enjoyed while belonging to various states in different political systems. Secondly, Ukraine, as a newly independent State, will be repealing those rights of the minorities that were enjoyed by Ukrainians when they were themselves a minority earlier.

## NOTES

- 1 Cf. 'city; other ethnic and linguistic groups are rather insignificant in comparison' (Csernicskó and Fedinec 2016, p. 569).
- 2 At the time of revising this chapter in August 2021, the latest census in Ukraine was conducted in 2001.
- 3 'Today's linguistic genocide is no longer a question of beating up children or putting them in gaol for speaking their own language [. . .]. Today's linguistic genocide does not have that kind of individual actors – the agency is embedded in structures which accomplish what the [United Nations] Genocide Convention's Final Draft in Article 3(1) defined as linguistic genocide:
 

prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group' (Skutnabb-Kangas 2003, 2019b).
- 4 <https://www.reuters.com/article/us-ukraine-nato-hungary/hungary-to-block-ukraines-nato-membership-over-language-law-idUSKBN1Y823N> (accessed 12 January 2021).

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