



## The Russian-Speaking Minority in Ukraine and the Russian Invasion

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### Introduction

During a conflict, political and military arguments inevitably prevail. Nonetheless, it is essential to focus on the issue of the protection of the rights of linguistic minorities, providing that this issue played a role in triggering the ongoing war (e.g., Chayinska 2020; Eras 2023; Teurtrie 2017) and will undoubtedly have relevance when organizing peace. The hypothesis of Ukraine's accession to the European Union – the official candidate status was obtained on 23 June 2022 – reinforces this necessity, given the inclusion of minority protection in the criteria for EU accession set out in Copenhagen in 1993 (DOC/93/3 point 7.A.iii). In line with these considerations, this work aims to provide a definition of the Russian-speaking minority, demonstrating the utility of such a concept. Secondly, the history of Ukraine will be traced, highlighting how territories and populations identifying as Ukrainian have changed over time, and how the minority-majority dynamics between Ukrainians and Russians have consequently evolved. In the third and final part, the focus shifts to the more recent situation, analyzing progress and setbacks in the protection of the Russian-speaking minority using reports, comments, and opinions by the Advisory Committee of the *Framework Convention for the Protection of National Minorities* and by the Committee of Experts on the Application of the *European Charter for Regional or Minority Languages*.

### 1. Definition of Russian-Speaking Minority

There is no universally agreed-upon definition of what constitutes ethnic or national minorities. In practical terms, what helps identify a national minority is the existence of a significant group of people who share a language, traditions, and ways of life different from those of the dominant group or the group in control of the state. Kymlicka (1998) proposes additional necessary characteristics for considering a group as an ethnic minority (distinct from the group of migrants who might otherwise have partly coinciding characteristics): a "historical" element, meaning the minority is such if it is "indigenous" to the territory where it resides, and an "organizational/political" element, meaning the minority is such if it recognizes itself as a group with distinct interests and needs compared to those of the majority ethnicity/nationality and there-

fore advocates for different political demands with a self-preservative outlook. The term “minority” is thus more about access to power rather than just numerical data (often in areas of traditional settlement, the minority is in the majority), as noted by Kymlicka (1998). However, this article focuses on a linguistic minority, as defined by Francescato (1993: 311). His definition is based on the criterion of the first language or mother tongue: the minority group has a language of primary socialization different from the official national language. Kymlicka’s observations remain relevant, as they help highlight the power dynamics inherent in the minority-majority relationship.

The presence of minorities in a territory can indeed be a source of problems. Minorities are often perceived as foreign or unreliable elements of the population. In this perspective, members of the minority could be seen as a potential “enemy within”, especially when the national minority has a “protecting” state, whether nearby or distant. This is particularly true in the post-Soviet area, for which influential studies by Brubaker (1996) contributed to conceptualizing the triadic and conflictual relationship between the Russian minority, the state that emerged from the dissolution of the Soviet Union, and the Russian Federation as a catalyst and influential support for the minority beyond its borders. The unease caused by the presence of minorities is not unfounded (Teurtrie 2017). However, in a supposedly civilized world, ethnic minorities within a state’s territory cannot be eliminated.

An apparently conclusive response may seem to be the assimilation of minorities into the majority. However, this approach has significant limitations and has proved to be quite ineffective in practice (Kymlicka 1998). Assimilation places the burden solely on the minority to conform to the majority, denying its right to preserve its own distinctiveness. This often ends up exacerbating and deteriorating relations between the minority and the majority, leading to the unintended consequence of alienating the minority and fostering separatist demands.

An alternative and effective model for preventing open conflicts is that of coexistence, as applied in South Tyrol/Alto Adige. The guarantee of dedicated and equal institutions, with the obligation - at least on paper - of mutual language proficiency at the local level, along with the provision for representation at the national level, has so far been effective in preventing the recurrence of conflicts (Benedikter 2021).

An approach that emphasizes integration remains the most desirable. Striving for integration means allowing languages to coexist, providing minorities with their own space, making them feel involved, and enabling them to contribute in their own way to state-building. Consistent with a liberal approach (Kymlicka 1998), the acceptance of minorities through the appreciation of their contributions can be achieved, if members of the minority are included in the identity-building process, identifying “the essence” of being Ukrainian not in linguistic commonality but in shared values. Alongside policies that promote the study and knowledge of multiple languages, an approach that refers to identity in multiple dimensions (Sciolla 2010) might be conclusive.

Ukraine is indeed a multi-ethnic and multilingual country that hosts various minority groups, including Hungarians, Romanians, Russians, Crimean Tatars, Rusyns, and Roma. Ukraine’s accession to treaties such as the *Framework Convention for the*

*Protection of National Minorities* (1998) and the *European Charter for Regional or Minority Languages* (2006) had raised hopes for their proper management. Unfortunately, the dominance of nationalist parties and divisive interests, often fueled by external powers, has led the state to backtrack on its commitments, to the detriment of all minorities within Ukraine's territory (Csernicsko, Kontra 2022).

The issue concerns in particular the use of language. Language is indeed one of the fundamental elements that determine the sense of belonging to an ethnic or national group, and it has been used in various studies as a criterion for the assertion of inclusive rights (e.g., Castano 2002; Moscatelli 2017). Education policies are therefore crucial within states that host minority populations (Taylor *et al.* 2008) and have a significant impact on the well-being of minority members (Kachanoff *et al.* 2019). Consequently, laws and regulations related to language use often heavily interfere with intergroup relations (Jetten, Wohl 2012; Taylor 2008).

In Ukraine, over time, Russian has assumed the status of an interethnic communication language, eventually becoming the preferred language of use even for individuals who are not ethnically Russian. The significance of the linguistic aspect was clear to the Ukrainian state as well. In the first census after independence (Kuras *et al.* 2004), in addition to questions about the ethnicity of Ukrainian residents, the questionnaire delved into the use of the Ukrainian language and other languages in daily life (Kuras *et al.* 2004: 39-40). The census showed that in 2001, ethnic Russians were 17% of the population, while Russian was considered the main language of use by 29.6%. It is not surprising that Russian speakers were in the majority in the regions of Lugansk, Donetsk, and Crimea with Sevastopol, while in the regions of Odessa, Kharkiv, and Zaporizhzhia, Ukrainian and Russian speakers were roughly equal in number. The document also highlights how knowledge of both languages was widespread, likely facilitated by their similarity. More recent surveys (Kulyk 2023) confirm that the Russian language is commonly used in Ukraine, even among people who do not identify as ethnically Russian.

The fact that people predominantly speak Russian in their daily interactions does not necessarily imply a political stance (or at least it did not in the past), nor does it imply an adherence to the Russian model, as was initially imagined by scholars in the early 1990s (Kulyk 2023). Russian speakers are not homogenous, which is why the term "Russian-speaking" is preferred over the concept of the "Russian diaspora", which is used by other researchers (King, Melvin 1998; Shlapentokh 1994; Smith, Wilson 1997). Focusing on the linguistic aspect allows for the identification of a common characteristic among diverse individuals, aiding in the description of a unique situation, typical of post-Soviet countries, where different languages coexist and are freely used, enriching the linguistic diversity of those immersed in it. When discussing Russian speakers, it is possible to consider the needs of those who identify as Ukrainian but prefer to use the Russian language in their daily interactions. Moreover, recognizing rights for Russian speakers does not delegitimize the Ukrainian language; on the contrary, the point is to guarantee linguistic freedom of choice so that those who abandon Russian do so by choice and not out of fear of persecution.

Since 2014, the Ukrainian language has gained increasing political significance, and the relationship with the Russian world has deteriorated (Chayinska 2020; Eras 2023). It has been demonstrated, through the analysis of questionnaires conducted before and after the events of Euromaidan, that many individuals who clearly identify as Ukrainian have continued to use the Russian language in their daily interactions (Kulyk 2023: 324). However, the situation likely changed after the Russian attack on February 24, 2022 (Chebotarova 2023).

## **2. History**

In its relationship with Russian speakers, independent Ukraine adopted a post-colonial approach (Pavlenko 2011). This approach argues that, starting from the Treaty of Pereyaslav in 1654, the Tsarist Empire and later the Soviet government gradually colonized and Russified the Ukrainian state (Masenko 2004; Besters, Dilger 2009). However, this perspective tends to overestimate the “Russifying” influences and underestimate interventions aimed at preserving the Ukrainian language (Pavlenko 2011).

Given the tendency of geopolitical contenders to instrumentally use history, it is essential to reconstruct the stages of Ukraine’s formation to understand how numerous diverse ethnicities ended up being in its territory, not as the result of a specific political will but as the outcome of border shifts and population movements.

It is a tradition to trace the historical origins of Russian, Ukrainian and Belarusian populations back to the Principality of Kyiv - in the 9<sup>th</sup> to 10<sup>th</sup> centuries. Among the territories controlled by this principality, those of Kyiv, Pereyaslav, Chernihiv, Galicia, Volhynia, and Turiv formed the basis of Ukrainian settlement. Due to the Mongol invasions of 1237-1240, these territories lost contact with their counterparts and ended up being influenced in ways that set them apart from their neighbors to the east (the Russians – “Muscovites”) and to the north (the Belarusians). However, even these six regions were unable to maintain their unity. Galicia and Volhynia, starting from 1387, became incorporated into the Polish kingdom, while the rest remained more or less autonomous but subject to frequent Tatar raids.

In response to the Tatar threat, the “Ukrainian Cossacks” emerged. The Cossacks, mentioned for the first time in 1492 (Doroshenko 1939: 141), fiercely resisted the Tatars, forming alliances at different times with the Poles, Lithuanians, Muscovites, and Swedes to maintain as much independence as possible. It is not feasible to recount the constant border shifts and countless alliances here. The result was the emergence of a distinct identity from that of the Russians, Poles, and Belarusians. The nation born out of this population found an important symbol of their uniqueness in the election of their leader called the “hetman” or “ataman”, in opposition to the autocratic tsar.

At the time of the Treaty of Lublin in 1569, Galicia, Kholm, Pidliasha, Podolia, Volhynia, Kyiv, and the southern part of Sieversk were formally under the control of Poland, while the districts of Brest and Pinsk were under Lithuanian administration. Moscow annexed the northern part of the Sieversk area, while Carpathian Ukraine was

under Hungarian control. The other Dnieper-crossing territories, sparsely populated due to continuous incursions, remained under Cossack control. The lands under Polish control experienced “Polonization” pressures, leading to the emergence of the Uniate Church. However, the situation remained rather fluid, with continuous territorial adjustments. In 1618, the Cossacks besieged Moscow in support of the Poles (Treaty of Deulino) and conducted numerous campaigns against the Turks in Bessarabia, along the Dniester River, and against the Tatars in Crimea. In 1648, the Cossack rebellion led to a reduction in Polish influence.

In 1654, the Hetman Bohdan Khmelnytsky concluded the Treaty of Pereyaslav with the Muscovite Tsar, primarily as an anti-Polish move. This treaty has been the subject of much discussion because it has been used by Russian rulers, Soviet scholars (Ohloblyn 1954), and even by Putin (2021) to justify Ukraine’s submission to Russia. However, it is more likely that at the time, it was conceived as a simple military agreement. This is evident from the fact that in 1658 the Treaty of Hadiach was concluded, which confirmed the Union of Poland, Lithuania, and Ukraine (Doroshenko 1939: 283). Ukraine - specifically, the provinces of Kyiv, Chernihiv, and Bratslav - was recognized as a free and independent state under the name of the Principality of Ruthenia. This principality was supposed to join a confederation with the Poles and Lithuanians, with the right to elect the king as the head of the Confederation. The hope was to gain control of territories along the Black Sea, with the possibility of extending influence all the way to Moscow. However, this confederation project was short-lived, as Muscovite troops had already occupied Kyiv by 1659.

Another crucial milestone was the Treaty of Andrusovo in 1667 between the Polish-Lithuanian Commonwealth and Russia, which resulted in Russia gaining definitive control of the territories on the left bank of the Dnieper River. This brings us to the year 1709 when the Hetman Mazepa, allied with the Swedes in an attempt to break free from Russian influence, was forced to flee with Charles XII to the Ottoman Empire following the defeat at Poltava. The outcome was the opposite of what Mazepa desired, as Russian influence continued to grow until the dissolution of the Cossack Hetmanate system in 1763-64 under the rule of Catherine II.

Catherine II’s rule and her assimilationist tendencies undoubtedly had a negative impact on the development of Ukrainian consciousness. However, it was primarily due to territorial acquisitions during her reign that most Ukrainians - divided until then - found themselves united within a single empire. Russia acquired the territories of Cherson and those along the Sea of Azov in 1774 with the Treaty of Kuchuk-Kainardji (Ruze 1997: 56-57), while the annexation of Crimea took place in 1783. These regions united in a district called Novorossiia and were placed under the control of General Potemkin (Doroshenko 1939: 498). In 1781, the districts of Chernihiv, Novgorod-Sieversk, and Kyiv merged into a single *guberniya* (province) called Little Russia. Even areas like Poltava, Kharkiv, and the southern parts of Voronezh and Kursk, which had remained sparsely populated due to constant conflicts between the Turks and Cossacks, were repopulated/colonized by people of various ethnicities, thanks to the peace guaranteed by Russian rule.

Another area where the ethnic composition significantly changed during that period is Zaporizhzhia, where rebellious Cossacks - difficult to control but useful in an anti-Turkish context - had long found refuge. Catherine II forced them to move to the territory of Budjak (Southern Bessarabia, the area around the mouth of the Danube, still formally under the control of the Sultan), facilitating the settlement of Serbs who had emigrated from the Habsburg Empire in the territories they vacated (Doroshenko 1939: 493-500). The partitions of Poland (1772, 1793, and later in 1815) also facilitated the reunification of Ukrainian territories under a single power, leaving only Galicia and Bukovina outside of Russian control.

Thus, we arrive at the 19<sup>th</sup> century, a period marked by the emergence of nationalist sentiments throughout Europe because of the French Revolution and the upheavals brought about by Napoleon. Ukrainians were no exception to this trend: books, research, literary works, and theater productions were published, and independentist movements and groups began to develop. In response to these developments, in 1863, the Valuev Circular (issued by the Minister of Internal Affairs) prohibited the use of Ukrainian in Russian territory, denying it the status of a language. The ban was further intensified in 1876 when Tsar Alexander issued the *Ems Ukaz*, which prohibited the publication of books in Ukrainian and even the staging of theatrical performances in the language (Bauman 2023). Ukrainian nationalists continued their activities secretly, aided by the fact that the Ukrainian language continued to be used and developed in Galicia (and partially in Bukovina), which was under Habsburg control. This situation led to a division where Ukrainian nationalists in Galicia (the Western regions of present-day Ukraine) tended to be pro-Russian, while in the eastern regions under Russian control Ukrainian nationalists were firmly anti-Russian. There were no further significant territorial changes for Ukraine, except for the definitive Russian acquisition of the southern part of Bessarabia (Budjak) following the Congress of Berlin in 1878.

The 1905 revolution marked another milestone for Ukrainians because, thanks to the Imperial Manifesto of October 15, 1905, the use and printing of the Ukrainian language were again allowed. With the outbreak of the First World War, history moved again for Ukraine, which became a war zone. The front line shifted multiple times in the territories of Ukraine, with the Austro-Hungarians and the Russians making promises to gain Ukrainian support that they would not ultimately be able to keep (Doroshenko 1939: XXIX).

With the February 1917 Revolution, the situation changed again in a way that seemed favorable to Ukrainian interests. In July of the same year, the Provisional Russian Government recognized Ukrainian autonomy, limited to the provinces of Kyiv, Poltava, Chernihiv, Volhynia, and Podolia. This led to the establishment of an Autonomous Ukrainian Government, called the "General Secretariat" and ruled by Volodymyr Vynnychenko (Doroshenko 1939: 621). Following the Bolshevik Revolution, the Ukrainian Central Rada in Kyiv declared the establishment of the Ukrainian People's Republic, federated with Russia. This Republic included provinces with a majority Ukrainian population, such as Kyiv, Poltava, Chernihiv, Volhynia, and Podolia, as

well as the provinces of Kharkiv, Katerynoslav, Kherson, and Taurida (excluding Crimea). Minorities within the territory were promised a degree of autonomy. The Ukrainian People's Republic declared independence from Russia in 1918 and received recognition from the Central Powers as the Ukrainian National Republic. Subsequently, some Ukrainians aligned with the Bolsheviks and negotiated with them at the Treaty of Brest-Litovsk, while others allied with the Germans against the Bolsheviks, and others sought Western support. A new Hetman, Skoropadsky, was elected, who claimed Crimea, Bessarabia, and territory along the Kuban River, aiming to establish a monarchy and receiving partial German support. In response, a directorate composed of Vynnychenko, Petliura, F. Shvets, A. Makarenko, and O. Andriyevsky launched a revolt and managed to take Kyiv, reestablishing the Ukrainian National Republic. Other Ukrainian forces organized in Galicia and Bukovina under the leadership of Petrushevych, proclaiming union with the Ukrainian National Republic in January 1919. At the end of World War I, a Ukrainian delegation appeared at the Paris Peace Conference but achieved limited results (Chopard 2014). The ongoing civil war further complicated the situation, which was eventually clarified by the Riga Armistice of October 18, 1920. The signatory was the Soviet Ukrainian Republic, a Bolshevik creation, while the Ukrainian National Republic, which had changed its name to the Ukrainian Democratic Republic, was liquidated. The territories under the control of the Soviet Ukrainian Republic included the regions of Chernihiv, Donetsk, Katerynoslav, Kharkiv, Kremenchuk, Kyiv, Mykolaiv, Odesa, Podolia, Poltava, Volhynia, and Zaporizhzhia. Galicia and Bukovina remained under Polish control, while Bessarabia came under Romanian control.

In the 1920s, Soviet Ukraine kept a degree of autonomy. There were some administrative changes in the composition of territories, notably in 1923, when the capital moved from Kyiv to Kharkiv. The Soviet Ukrainian Republic reorganized into 53 districts, with a partial reassignment of some territories (Tanarych and Sharrstky) to the Russian Soviet Republic (DAU2023). In 1924, the lands along the Dniester River were separated from the rest of Ukraine to create the Moldavian Autonomous Soviet Socialist Republic - at this stage, still an autonomous territory within the Soviet Ukrainian Republic. In Soviet Ukraine, Ukrainian became the official language, leading to the reopening of cultural institutions and schools. The Ukrainian leadership, based on the results of the 1926 census, requested control over the Kuban, Kursk, Voronezh, and North Caucasus territories but was unsuccessful in obtaining them (Arel 2002). Other minor administrative changes occurred in 1928, 1930, 1932, and 1934, including the return of Kyiv as the capital (DAU2023). However, the most significant events in Ukrainian history during the 1930s were the tragic famine known as the Holodomor, which resulted in a devastating loss of life, and the forced population movements initiated by Stalin (Mattingly 2023). From a language planning point of view, at the 12<sup>th</sup> Congress of the Communist party in 1923 the policy of "indigenization" was pursued, and in Ukraine this meant that Ukrainian became the official language of communication at all levels of the society in that part of the country (Krouglov 1997: 12). The newly formed Ukrainian Academy of Sciences, together with the Communist

Party, put considerable effort in bringing the language in line with the new ideological postulates. However, in 1930 the official policy changed again, pushing for the use of Russian as the language of cooperation and progress, with the Ukrainian intelligentsia being crushed once again (Krouglov 1997: 12).

With the Molotov-Ribbentrop Pact and the start of World War II in 1939, the Soviet Union conquered the remaining “ethnically” Ukrainian territories, taking them from Poland (Galicia) and Romania (Bessarabia - which, from 2 August 1940, formed the Moldavian Soviet Socialist Republic, permanently separated from Ukraine). However, this process led to significant population displacements and disruptions. At the end of World War II, the borders were determined through a series of treaties and conferences. The Yalta Conference of 1945 was crucial for defining Polish borders, following the Curzon Line, which was drawn along the Western Bug and Solokia rivers, with territories to the east of these rivers assigned to the Soviet Union and, subsequently, Soviet Ukraine. This arrangement was confirmed by the treaty between Poland and the Soviet Union on August 16, 1945. In 1951, a second treaty was signed, which transferred the Drogobychko department (northwest of Lviv) under Polish sovereignty, while part of the Lublin Voivodeship (southwest of Lviv) came under Ukrainian control (Rindlisbacher 2023). Another significant change in Ukraine’s territorial composition occurred in 1954 when the Crimean territory was transferred under its jurisdiction, ostensibly for administrative efficiency (Rindlisbacher 2023).

Stalin implemented many deportations, and in some cases, such as with the Crimean Tatars, he deported entire populations, further complicating the ethnic composition. In general, throughout the Soviet period after World War II, internal mobility was promoted in order to foster citizens’ identification with the Soviet state rather than their ethnic origin. Russian was the lingua franca in the Soviet Union, and those who migrated internally were not always interested in learning the “local” language of their new place of residence. Therefore, the accusation against Soviet authorities of actively pursuing a policy of Russification at the expense of “local” languages is not unfounded (Alpatov 2000; Bilinsky 1968; Pavlenko 2011; Smith 1998), but it tends to be overemphasized (Bilaniuk, Melnyk 2005; Liber 1992; Palvenko 2011; Solchanyk 1985).

A partial revitalization of Ukrainian language and culture can be identified in 1963-1972, as a result of the Petro Shelest’s policy of national communism, but this period ended yet again as a massive russification was initiated in Moscow by Brezhnev ideologists and promoted by Volodimir Shcherbytsky, the first secretary of the Communist Party of Ukraine (Krouglov 1997: 15). Shcherbytsky could maintain his predominant position until 1989, when the changes in Moscow, notably the rise of Gorbachev with his policies of *perestroika* and *glasnost*, as well as the aftermaths of the Chernobyl disaster, fostered the creation of the Taras Shevchenko Ukrainian Language Society and the Popular Movement for Restructuring in Ukraine. Because of their influence and the introduction of language laws promoting the indigenous languages in the other Soviet republics the Soviet Supreme Council of Ukraine proclaimed Ukrainian as the state language, recognizing the role of Russian as the lan-



guage of international communication between the people of the USSR (Krouglov 1997: 17). This helped Ukrainian to slowly regain its status as a proper language.

With the collapse of the Soviet Union, Ukraine declared its independence in 1991. In 1992, tensions and protests in Crimea were resolved when the region was granted autonomy (ECRML (2010) 6: point 11). The first Constitution was adopted on June 28, 1996, and Article 132 established that Ukraine would consist of the following regions: the Autonomous Republic of Crimea, Vinnytsia, Volyn, Dnipropetrovsk, Donetsk, Zhytomyr, Transcarpathia, Zaporizhzhia, Ivano-Frankivsk, Kyiv, Kirovohrad, Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Kherson, Kholmynskyi, Cherkasy, Chernivtsi, and Chernihiv, with the Special Status Cities of Kyiv and Sevastopol.

In 1994, Ukraine obtained guarantees of its territorial integrity with the Budapest Memorandum in exchange for relinquishing its nuclear arsenal. In the early 2000s, agreements between the Russian Federation and Ukraine seemed to have resolved most of its border issues. However, in 2014, in response to the events of Euromaidan, pro-Russian forces in the Republic of Crimea organized a referendum, declared independence, and requested annexation by the Russian Federation, which promptly annexed it, causing international outrage. At the same time, in the Luhansk and Donetsk regions, pro-Russian separatists began guerrilla operations, culminating in 2022 with a request for recognition as independent entities and subsequent annexation by the Russian Federation. The Russian Federation took advantage of the situation on the ground to launch a large-scale offensive, initiating the current war.

### 3. Current Situation of the Russian-speaking Minority

Ukraine is a party to the two major conventions protecting minorities: the *Framework Convention for the Protection of National Minorities* (since 1998) and the *European Charter for Regional or Minority Languages* (since 2006). Ukraine's accession to the *European Charter for Regional or Minority Languages* faced complications. It was initially ratified in July 2000, but the Ukrainian Constitutional Court declared the ratification null due to procedural defects (Shul'ga 2001: 207–212). The instrument of ratification was only deposited in 2006, and as a result, the Charter has been in full effect only since that year.

The Ukrainian Constitution (Constitution of Ukraine 2020) in Article 10 declares Ukrainian the official language of the State. In the third paragraph of the same article, Russian is recognized to have a more prominent position than other minority languages (Kolesnichenko 2007). Other articles containing specific provisions for the protection of minorities include Article 11, which promotes the development of autonomy for all indigenous populations and national minorities, and Article 53, which recognizes the right to education in one's mother tongue. The entire second section - devoted to human and citizen rights, freedoms and duties - guarantees a high level of protection for all citizens, expressly enshrining in Article 22 the absolute intangibility of constitutional safeguards. It is also allowed to make special arrange-

ments at the local level, where a minority is present in significant numbers. Numerous laws and administrative acts relate to the lives of members of minorities. In examining their application and effects on the Russian-speaking minority, I relied on opinions, comments and reports produced by the Advisory Committee of the *Framework Convention for the Protection of National Minorities*, and by the Committee of Experts for the application of the *European Charter for Regional or Minority Languages*.

The reports produced by the Ukrainian government since its accession to the Convention have been five in total. The first report, produced in 1999 and commented upon in 2002, highlighted that the overall situation was characterized by a spirit of tolerance and dialogue. Nevertheless, tensions related to the language issue were noted, which had arisen in political debates surrounding laws regulating the use of Russian and Ukrainian in various contexts. The tones of these debates were contrary to the principles established in Article 6 of the Convention and could hinder a more inclusive approach to the matter (ACFC/INF/OP/I(2002)010: paragraph 35). An incident was reported in which local authorities in Lviv had attempted to limit the right to use the Russian language in 2000, although this attempt ultimately failed (ACFC/INF/OP/I(2002)010: paragraph 49). For this reason, the Ukrainian government was encouraged to promote greater awareness and better implementation of the content of the Convention. It was also noted that there was a general legislative deficiency regarding the prohibition of discrimination.

In 2008, the second Commentary (ACFC/OP/II(2008)004) acknowledged the efforts made, such as the definitive accession to the European Charter for Regional or Minority Languages, but still criticized the Ukrainian legislative framework as outdated and inconsistent (ACFC/OP/II(2008)004: point 9). The *Law on National Minorities* (1992) and the *Law on Languages* (1989) were criticized for being outdated. The Committee also reported the concerns expressed by Russophones regarding the undue restriction of the use of the Russian language, followed by the Committee's call to ensure that the promotion of the official language did not excessively harm minority languages, including Russian (ACFC/OP/II(2008)004: point 12). Regarding education specifically, the Committee noted that the use of the Ukrainian language was steadily increasing while the use of the Russian language was decreasing – a fact that was not illegitimate but needed monitoring. The Committee raised serious concern about the Ministry of Education's failure to consult with minority representatives when deciding to enforce the mandatory use of Ukrainian for all secondary education final exams starting from December 2007, even for students who had followed curricula in a minority language. Another potential issue was the reform of the electoral system where the introduction of a pure proportional representation system with a single national constituency (instead of the previously mixed system) made it more challenging for minorities to elect their own representatives.

Another comment on the situation in 2008 is expressed in the first Report of the Committee of Experts on the application of the Charter by Ukraine (ECRML (2010) 6). The Committee noted that in drafting its official report, the government failed to sufficiently involve minority representatives. Issues with the translation of the Charter

into the Ukrainian language had emerged, leading to an inadequate understanding and potentially incorrect application of the Charter (ECRML (2010) 6: point 2 p. 4). Given the large number of Russophones and the situation regarding the use of the Russian language, the Committee recommended providing translations of all materials in this language, granting it a differentiated status (ECRML (2010) 6: point 5, reiterated at points 16, 47, 58, 10, 61, 10, 77-79). At point w, page 96, of the first Commentary (ECRML (2010) 6), the Committee observed that if commitments to protect the Russophone minority had been respected, this had occurred in a minimal and inadequate form considering the cultural significance of the Russian language in the country. It highlighted that some restrictions on the use of the Russian language in the media and education could likely lead to issues with the Russian-speaking community. In the document, the Committee acknowledged the legitimate aspiration for an increased use of the Ukrainian language but reminded the authorities that this should not come at the expense of minority languages (ECRML (2010) 6: point B). This consideration was not repeated in the *Second Commentary on the Application of the Charter* (ECRML (2014) 3; Chapter 4, 188-190) following the amendment to the *Law on the Use of Ukrainian* in a more favorable direction for minorities but resurfaces in the 2023 Commentary (MIN-LANG (2023) 15). This Commentary emphasizes throughout the text that the new law (*Law of Ukraine - On Supporting the Functioning of the Ukrainian Language as the State Language of 2019*) risks hindering the effective use of minority languages. Criticisms of the *Law on the Use of Ukrainian* are also present in the *Opinions* on the application of the Convention.

In the *Opinion on the Third Report on the application of the Convention* (ACFC/OP/III(2012)002), the Committee acknowledges the modification of rules concerning school exams and the cooperation of the authorities in conducting monitoring visits. However, it highlights problems related to the polarization of the debate on the use of Russian as an alternative to Ukrainian and how this significantly worsened the situation for members of other minorities. The dissolution of the *State Committee on Nationalities and Religions* is criticized. Even though it was partially replaced in 2010 by a sub-department *on National Minorities and the Ukrainian Diaspora* under the control of the Ministry of Culture, its dissolution made it more challenging for minorities to identify an interlocutor (ACFC/OP/III(2012)002 point 11). The Committee laments the limited involvement of minorities in the production of government reports and notes the lack of translation into the official language of the materials produced. It criticizes the continued absence of a register for verifying the existence of discriminatory practices, observes an increase in conflicts in Western Ukraine and Crimea, and reiterates how the debate regarding the use of Russian and Ukrainian languages ends up harming other minorities as well.

In 2014, within the context of the Euromaidan protests and increased conflict, the Committee adopted an “ad hoc procedure” (ACFC(2014)001) to comment on the ongoing structural reforms during that period. It expressed optimism regarding the support for European values but at the same time raised concerns about the tone of the media-promoted interethnic relations debate. Specifically, addressing the Rus-

sian minority (ACFC(2014)001 point 10), the Committee highlighted the presence of very diverse opinions within this group. Some felt adequately protected, while others feared a “linguistic genocide” was taking place. The Committee noted the potential for manipulation from this situation, which could lead to intra-ethnic violence. It suggested that the authorities demonstrate their commitment to promoting the use of all languages and provide clear and precise information regarding constitutional and legal changes. Given the collapse of the Party of Regions (primarily supported by the Russian minority), the Committee urged greater efforts by the authorities to ensure adequate representation of Russophones to prevent radicalization. The fact that representatives of the Russian minority in Kharkiv had refused an invitation to present their viewpoint was cause for concern (ACFC(2014)001 point 19).

In the following Opinion (ACFC/OP/IV(2017)002), published in 2018, the Convention Committee notes that the illegal annexation of Crimea did not help improve interethnic relations. They acknowledged that the Ukrainian state, lacking effective control over Crimea and the Donbas region, could not ensure the observance of conventions in those areas. The monitoring visit was carried out in 2017 simultaneously by the Committee against Racism, the Charter Committee, and the Convention Committee. They noted the lack of translations and meetings with minority representatives by the Ukrainian government. The Convention Committee also observes how the conflict has created a situation where people with complex and multiple identities have felt compelled to demonstrate their loyalty to the state, and this has had repercussions, especially on Russian speakers. The document expresses disappointment over the deterioration of protections: the improvements introduced by the 2012 laws were challenged, legislation with substantial enhancements was not being voted on, and the new laws adopted by the Ukrainian Parliament did not ensure sufficient protections for minorities. Specifically, the following aspects were criticized:

- the legislation introduced in 2016 regarding media usage, imposing a minimum quota of Ukrainian songs on all radio stations, explicitly excluding Russian and other “non-European Union” languages, as this could be seen as a clear indication of the intention to marginalize these languages (ACFC/OP/IV(2017)002, point 22);
- the draft *Law on the official language*, which would have created a *National Commission on Official Language Proficiency Standards* with investigative and punitive powers, introducing criminal liability for public non-compliance with the Ukrainian language (ACFC/OP/IV(2017)002, point 25);
- the new *Higher Education Law*, foreseeing the use of only the Ukrainian language, with the use of other languages only as exceptions (ACFC/OP/IV(2017)002, points 23-25);
- the *Discrimination Law*, considered to be lacking precision in defining specific cases and unclear in identifying effective remedies (ACFC/OP/IV(2017)002, point 28).

The Committee also highlighted as particularly serious the tendency to prohibit the use of languages other than Ukrainian in private conversations (ACFC/OP/IV(2017)002, point 24) and the failure to conduct a new census, initially planned for 2011 but postponed to 2013, then to 2016, and again delayed to 2020 but never carried out (ACFC/OP/IV(2017)002, point 37).

In regard to Russian speakers, the eviction of the Pushkin Association in Lviv was reported as unjust (ACFC/OP/IV(2017)002, point 72), and concerns were raised about the inappropriate use of laws for the removal of Communist and Nazi symbols adopted in 2015, which were used in an anti-Russian manner - contrary to the spirit of the Convention (ACFC/OP/IV(2017)002, points 77-78). The situation described in the fourth comment is, therefore, very negative.

As of the time this article is being written, the *Opinion on the Fifth report on compliance with the Convention* is not yet available. However, given the dramatic backdrop of the armed conflict, along with the formulation of the *Law on the Functioning of Ukrainian as the Official Language* (Law of Ukraine 2019) and the hostility evident in the January 2022 Report - for example, the fact that the number of Russian speakers exceeds the number of ethnic Russians is considered a problem (ACFC/SR/V(2022)001: 64) - it is reasonable to fear that the situation may have worsened for the Russian-speaking minority.

In addition to official data, assessing the quality of life of the Russian-speaking minority also requires an understanding of the attitudes of the Ukrainian population towards Russian-speakers. In this regard, the work of Eras (2023) is helpful, as it analyzes responses to surveys conducted by the Kyiv Statistical Institute regarding the perception of Russian speakers by the rest of the population from 1995 to 2018. The study notes an increase in social distance after 2014, particularly during President Poroshenko's presidency. Chayinska *et al.* (2020) confirm the trend of social distance by analyzing the positive responses of Ukrainians to laws that restrict the use of Russian and other non-Ukrainian languages. The study (Chayinska *et al.* 2020: 10) demonstrates that the more members of the analyzed group felt a sense of attachment to Ukraine - perceived as a "historically victimized" state - the greater the collective anxiety about the fear of losing the right to use their own language, and hence the greater the support shown for "monolingual" legislation at the expense of other linguistic groups in Ukraine. This phenomenon can be explained by Ukraine's choice to emphasize language use as a legitimizing criterion for its independence from Russia (Arel 2002: 28), with the Russian Federation, on the other hand, repeatedly using the protection of Russian speakers, who are the "true majority" of the Ukrainian population (Arel 2002: 239), to justify its armed intervention (Putin 2016; Putin 2022).

#### 4. Conclusion

In the past, Ukraine has made significant efforts to ensure adequate protection for the minority populations within its territory. However, even before 2014, there were steps backward in this regard, and there is reason to believe that the situation may worsen in the future, particularly concerning the Russian-speaking minority.

The study by Chayinska *et al.* (2022) demonstrates that the direction taken towards progressively reducing the public space available for languages other than Ukrainian has decreased, with the support of a growing number of Ukrainian nationalists likely to increase with the conflict. It is also significant that an official Russian-language version of the constitutional text is no longer available on the Ukrainian Rada's website, even though it was present at least until 2018. Unfortunately, there are also journalistic reports of rejections toward those who do not speak Ukrainian (Brizzi, Matteis 2023; Kurkov 2023). However, such resistance contradicts the European constitutional values of equality, inclusion and respect for human rights.

Furthermore, alienating a significant percentage of the population due to language preferences does not seem conducive to the creation of a prosperous and cohesive state. Restrictions aimed at Russian speakers have often had negative impacts on other Ukrainian minorities as well (Brenzovics *et al.* 2020). Ensuring support and space for minorities within the Ukraine that will emerge from the conflict is a necessary commitment. While it may seem premature or even superfluous to address this issue during wartime, it is, in fact, a primary goal to ensure a just and lasting peace. Addressing minority rights and protections is a crucial aspect of building a more stable and harmonious future for Ukraine.

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