

## Language Policy in Ukraine - Overview and Analysis

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## ANALYSIS

### Language Policy in Ukraine—Overview and Analysis

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#### Abstract

Since Ukraine gained its independence in 1991, except during Viktor Yanukovich's presidency, Ukraine's language policy has been marked by efforts to close the prestige gap between the Russian and Ukrainian languages and to enforce the Ukrainian language in all domains of public use. When it joined the Council of Europe in 1995, Ukraine was obliged to implement the European Charter for Regional or Minority Languages, which strengthens the position of Russian. The controversial language law of 2019 gives the Ukrainian language supremacy in all areas of public life, which is hardly questioned anymore due to Russian aggression.

#### 1. Ukrainian Language Policy in the 1990s—Typological Classification and Consequences

The proclamation of independence on August 24, 1991 was preceded by a language law of the Ukrainian Soviet Socialist Republic of October 1989, in which Ukrainian was declared the sole state language and Russian the language of interethnic communication. At the same

time, the languages of the minorities were guaranteed special protection, which was reaffirmed in a separate law for minorities in 1992. In 1989, in the final phase of the Soviet Union, Ukrainian language policy could initially strive only for status planning, i.e., the creation of a basic language law.

In the first years of autonomy, the focus was not only on status planning but also on corpus planning

and acquisition planning, i.e., on the one hand the creation and expansion of Ukrainian terminologies and on the other hand the determination of which languages should be offered as languages of education at all levels of the education system. In the 1990s, usage planning included not only education and administration, but also the media sector, for example the “Law on Television and Radio” (1993) and the “Law on Cinematography” (1998), both of which stipulated increased or exclusive use of the Ukrainian language, but were not complied with. It is significant that only in the two state-controlled domains (administration, education) was the enforcement of Ukrainian more or less successful; prestige planning, i.e., implementation in prestigious domains (economy, science, media, culture, internet), did not succeed at that time.

With the 1989 census, in which every inhabitant of Ukraine declared his or her nationality (Ukrainian: 72.7%, Russian: 22.1%) and mother tongue (Ukrainian: 64.7%, Russian: 32.8%), the state felt entitled to force the transition in schools to the Ukrainian language of instruction in the various regions to the extent that corresponded to the respective proportion of members of Ukrainian nationality. In fact, in everyday usage, Russian was used at least as often as Ukrainian, and a large majority of ethnic Ukrainians declared themselves bilingual, while ethnic Russians did so to a much lesser extent. With this measure in the field of education, resistance against the Ukrainian language began in the eastern and southern Ukrainian cities, where Ukrainian had previously been smiled at or ignored. There was talk of “forced Ukrainization”. The subsequent 2001 census (the last ever conducted) seemed to show that a growing proportion of the population identified themselves as having Ukrainian nationality (Ukrainian: 77.8%) and Ukrainian mother tongue (Ukrainian: 67.5%). Ukrainian nationality was dominant in all regions except Crimea (Russians: 58.3%, Ukrainians: 24.4%). Comparing the two censuses, it is striking that proficiency in the Ukrainian language had increased in all regions except Donetsk and Luhansk, where it had actually decreased.

When the Ukrainian constitution was passed in 1996, the pro-Ukrainian faction succeeded in making Ukrainian the only state language. For several years there had been discussions about making Russian the official language; President Kuchma (1994–2004) even promised this during his 1994 election campaign. In 1999, however, the Constitutional Court of Ukraine declared that “official language” and “state language” were the same and therefore the introduction of an official language was as inconsistent with the constitution as a second state language. The constitution simultaneously guarantees the free development, use and protection of the Russian language and other languages of national

minorities (Article 10) and differentiates in Article 11 between autochthonous peoples and national minorities—a differentiation carried out in the Constitution only in Article 11 and revisited later (2017 and 2019, see Section 3). Article 53 guarantees citizens belonging to national minorities the right to receive instruction in their mother tongue or to study their mother tongue in state and municipal educational institutions or through national cultural associations.

## 2. Accession to the Council of Europe: Between Europeanization and Re-Russification?

Ukraine joined the Council of Europe (CoE) in 1995 at a time when the latter had recently decided that accession was connected with the obligation to sign and ratify the European Charter for Regional or Minority Languages (hereafter: Charter) within one year. Other post-Soviet states that joined at this time or later, unlike Ukraine, did not fulfil this obligation (Moldova, Georgia, Azerbaijan, Russian Federation). Russian was among the languages of 13 minorities that Ukraine listed as worthy of protection, although it was spoken by at least half of the population. Only the languages spoken by less than half of the population of a given territory are protected by the Charter. First, a translation error may have played a role here, second, Russian and Russian-speaking members of parliament pushed for the inclusion of Russian in the languages protected by the Charter because they hoped this would compensate for the lack of status as a second state language or official language.

The consequences included, on the one hand, constant calls for more support for Russian, which were repeatedly made both by Russian-speakers (ethnic Ukrainians and ethnic Russians) in Ukraine and by the Russian Foreign Ministry. Individual cities and municipalities in the south and east interpreted the Charter, which came into force on January 1, 2006, in such a way that they declared Russian their regional language and from then on did not want to accept Ukrainian as official language or as language of education. On the other hand, as usual, a committee of experts from the Council of Europe checked compliance with the Charter at regular intervals. The special problem of the situation in Ukraine—having a state language that, after a long period of suppression, cannot assert itself in numerous prestigious domains such as economy, science, culture, media and internet—was only considered by individual European representatives (the OSCE High Commissioners on National Minorities, Max van der Stoep and Knut Vollebaek).

The CoE experts’ reports (Council of Europe: Reports) made it clear that Ukraine was trying to achieve two contradictory goals at the same time—con-

solidation of the state language Ukrainian and fulfilment of European requirements.

The Ukrainian Language Law of 1989 remained in force until 2012, despite dozens of amendments proposed by various MPs. Under the government of pro-Russian President Viktor Yanukovich (2009–2014), a controversial draft law by the Party of Regions (the so-called Kivalov-Kolesnichenko law) prevailed and was brought through parliament under illegal circumstances (inter alia vote rigging, cf. Besters-Dilger 2022, 150, 159). This law entitled “On the Principles of State Language Policy” gave all territorial units where 10% of the population are Russian-speaking or speakers of any other minority language the right to designate it as their regional language and de facto use it with Ukrainian on an equal footing or even to give it priority, e.g., as an educational and official language. For Russian, no fewer than 13 out of the 27 regions of Ukraine met this condition. The Venice Commission of the Council of Europe, which examines the compliance of national legislative projects with the principles of the European legal system, complained, among other things, that there were no guarantees for the protection and priority of Ukrainian as the only state language, which has an integrating task in the state. The Commission demanded that Ukrainian must be taught as a mandatory requirement in all schools. Likewise, it complained that there was no regulation of the language issue in the mass media. Although the law received more exclusively negative assessments from European and national auditors (OSCE High Commissioner Knut Vollebaek; Scientific Committee of Experts of the Ukrainian Parliament, responsible parliamentary committee, Academy of Science, etc. [Maidan.org 2012]), it came into force in August 2012. As a result, a total of 15 territorial units (seven out of 27 regions and eight cities) officially switched to Russian, 3 units to other minority languages (Hungarian, Moldovan, Romanian), and Ukrainian was abolished as the school and official language. The preamble to the law claimed that it served to fulfil Ukraine’s European obligations under the Charter, namely the promotion of regional or minority languages.

### 3. The Aftermath of Maidan and Russia’s Full Scale Invasion

It is indicative of the controversial nature of this language law that on February 23, 2014, the day after the end of the Maidan, i.e., after Viktor Yanukovich fled, the Ukrainian Parliament decided to repeal this law with a majority of 86%. The annulment failed due to the refusal of Parliament Speaker Turchynov to sign the repeal law, and the new President Petro Poroshenko (May 2014–2019) also refused to sign, fearing that the Russian-speaking population, who predominantly

lived in the east and south of the country, would react negatively. International commentators, above all the OSCE High Commissioner, warned against signing. Nonetheless, the false claim propagated by Russia that “Kiev bans the use of the Russian language” was spreading in eastern Ukraine. This was one of the triggers for political unrest supporting Putin’s plans to annex Crimea and destabilize eastern Ukraine.

Thus, this language law remained in force until February 2018, when the Ukrainian Constitutional Court declared it unconstitutional for formal (violation of the rules for parliamentary voting), not content-related, reasons.

Contrary to many state measures in favour of the Ukrainian language “from above”, the annexation and Russia’s war in the Donbass had a major impact on the extent to which Ukrainian is truly used “from below”. As a result, many bilingual or Russian-speaking citizens of Ukraine decided to shift from Russian to Ukrainian. On the one hand, approximately 1 million mainly Russian-speaking internally displaced persons fled from Crimea and the so-called People’s Republics of Donetsk and Luhansk to predominantly Ukrainian-speaking western and central Ukraine. On the other hand, many Ukrainian citizens who were previously Russian-speaking or bilingual wanted to set an example and no longer communicate in Russian. This change in everyday language usage did not always last (Tsar 2020). Nevertheless, in the years after the Maidan, a slow but steady increase in the commitment to Ukrainian nationality and the Ukrainian mother tongue, and in the actual use of Ukrainian could be observed (Kulyk 2018 and in this issue).

In addition to several other laws, the following two are important for the current Ukrainian language policy: the “Law on education” (entry into force on September 5<sup>th</sup>, 2017) and the “Law on supporting the functioning of the Ukrainian language as the State language” (signed by President Poroshenko on one of the last days of his term and coming into effect on July 16, 2019; hereafter State language law). The Ukrainian Constitutional Court confirmed the constitutionality of the former on July 16, 2019. This was necessary, because both laws were critically examined by international representatives of Ukrainian minority languages and by the Venice Commission. In particular, the Venice Commission criticized a principle that is enshrined in both laws (in Article 7 resp. Article 21): Ukrainian is the only language of instruction from secondary school onwards—apart from the languages of autochthonous peoples that can be used in general middle schools. The minority languages Russian, Hungarian, Romanian, Polish, Bulgarian and Slovak lose their former function as languages of instruction from secondary schools onwards, and stu-

dents can learn them only as a separate subject. In some cases (Hungary, Romania) this led to foreign policy conflicts. Individual subjects can be taught in higher education institutions in English or in official EU languages, but not in Russian. This is basically a tripartite division of non-state languages: the division into languages of autochthonous peoples, EU languages used by national minorities plus English, and non-EU languages used by national minorities. The latter include Russian. In the State language law, this unequal treatment is extended to other areas of public life. The Venice Commission advises removing the boundary between the second and third groups.

Like the previous law, the State language law refers in its preamble to European demands by claiming that it takes up the Venice Commission's criticism of the law "On the principles of State language policy". In fact, this law singles out only one aspect, namely the insufficient consideration of the special position of Ukrainian as the only state language. What is new is the obligatory use of Ukrainian in almost all domains (Internet, trade and business, science, culture, advertising, health care, election campaigns, etc.), in other words strong prestige planning that had thus far had little success. Certain exceptions are made for English and EU languages (especially in science) but not for Russian. Another addition is the office of a Commissioner for the Protection of the Ukrainian Language, who monitors compliance with the regulations and acts as an ombudsman for citizens who feel that their use of the Ukrainian language is restricted, as well as a commission that regulates the standards of the Ukrainian language, and the right of every citizen to free Ukrainian lessons. Moreover, another new element is that with regard to the rights of other languages used in Ukraine, reference is made to a law on national minorities that has yet to be drafted. This was criticized by the Venice Commission which argued that the law on minorities should have been passed first, followed by the State language law. The law expressly does not restrict the private use of any language and the language of church rites. Nevertheless, in eastern Ukraine, "Kiev bans the Russian language" was claimed, just as in 2014.

The differentiation between autochthonous peoples and national minorities was retained in the period that followed. The law "On autochthonous peoples of Ukraine" was adopted on July 1, 2021, and the law "On national minorities (communities)" on December 13, 2022, in the middle of the Russian-Ukrainian war. Concerning the language issue, both refer to the Education law of 2017 and the State language law of 2019. The Russian language is not mentioned. The current political situation is referred to in three interesting passages of the law "On national minorities (communities)".

Article 5 (6) states that "...Persons belonging to national minorities are prohibited to popularize or propagandize the terrorist state (aggressor state) and its bodies, the Russian Nazi totalitarian regime, symbols of the military invasion of Ukraine by the Russian Nazi totalitarian regime..." etc. Article 13 (9) formulates the aim of preventing interethnic conflicts and the abuse of national minorities by other states for the autonomization of their regions of residence and the disintegration of Ukraine, and Article 21 (2) forbids cooperation with foreign states whose activities are aimed at the elimination of Ukraine's independence. In June 2023, in its criticism of this law, the Venice Commission referred almost exclusively to Article 10 (language use) and expressed that the linguistic rights of minorities should be further expanded and the obligation to constantly take the state language into account should be reduced. The Venice Commission also referred to its criticism of earlier laws (Law on education and State language law) because these served as a point of reference on several occasions.

It was a smart manoeuvre to pass the laws on Education and State language before the two Minority Laws, since the latter refer to them repeatedly. A special disregard for the Russian language cannot be proven in the law "On national minorities (communities)", as it is treated like all languages of national minorities. The Russian-Ukrainian war has had no direct consequences for the Russian language on the legal level, but it has had an effect at the level of language users. In fact, the legal deprecation of Russian took place in 2017 and 2019 and was confirmed as constitutional by the Ukrainian Constitutional Court.

#### 4. Outlook

The Russian invasion on February 24, 2022 gave the State language law of 2019 a topicality and relevance for everyday life that it would probably not have achieved without the war. The explosion of the number of Ukrainian-speaking citizens (see the contributions of N. Kudriavtseva and V. Kulyk in this issue) was, contrary to 2014, strongly supported by the law and the active State language policy it describes. Only years after the end of the war we will be able to judge whether the widespread shift to the Ukrainian language will be permanent. In times of war, international criticism of the State language law—with the exception of that from Hungary—has mainly fallen silent.

In the balancing act between the consolidation of the Ukrainian language, the Soviet legacy (dominance of the Russian language) and Ukraine's European commitments, the confrontation of the former two was still dominant in Ukrainian language policy until the 2022 invasion. The criticism of the Venice Commission was generally largely ignored or misused for political pur-

poses. However, the Charter, such as the Framework Convention for the Protection of National Minorities, remains valid. Ukraine's accession to the EU will require

adoption of the complete *acquis communautaire*, which also includes regulations regarding minorities and their languages.

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## ANALYSIS

# Ukrainians Now (Say That They) Speak Predominantly Ukrainian

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## Abstract

Contrary to Putin's expectations, most Ukrainians responded to Russia's full-blown invasion of Ukraine by a stronger attachment to their country and nation. One element of this attachment is an embrace of the national language at both the symbolic and communicative levels. Not only did Ukrainians come to love their language more than before, but they also started to speak it more often in their everyday lives. Or so they say.

## Introduction

Language use has long been a controversial issue in Ukrainian politics and Ukraine's relations with Russia. (Arel 1995, Kulyk 2002, Besters-Dilger 2009) While champions of Ukrainian wanted to make it the main language of all social domains and called for the state to take active measures to achieve that goal, supporters of the Russian language sought to prevent its unrestricted use and for many years tried to have its legal status elevated to the level of Ukrainian. Moreover, the Russian government considered any expansion of the use of Ukrainian as a violation of the rights of Ukraine's Russian-speakers and pressured the Ukrainian authorities to refrain from any such moves. Although Russian continued to be widely used in virtually all domains and remained the predominant language of

the eastern and southern regions, the status of Ukrainian as the sole official language facilitated the gradual expansion of its use in institutional and everyday communication.

The introduction of Ukrainian in various domains became more resolute after 2014 when the victory of the Euromaidan revolution brought to power more nationally minded politicians, and Russian aggression urged many Ukrainian citizens to more strongly embrace the titular language as an important element of nationhood. This embrace became much more pronounced after Russia's full-blown invasion in February 2022 when millions of Ukrainians came to hate Russia and all things Russian, which for many of them included the language.

A nationwide survey conducted by the Kyiv International Institute of Sociology (KIIS) in December 2022