István Csernicskó[*]

The European Charter for Regional or Minority Languages by Ukraine

Rezümé. Ukrajna első alkalommal 1999-ben ratifikálta a Regionális vagy Kisebbségi Nyelvek Európai Chartáját, ám az Alkotmánybíróság hatályon kívül helyezte a törvényt. 2003-ban ismét megtörtént ratifikálás, ám a Charta azóta is politikai és társadalmi viták kereszttüzében áll, alkalmazása esetleges. Polemizálnak a Charta hatálya alá eső nyelvek, a nemzetközi dokumentum célja, alapfogalmai és terminológiája kapcsán egyaránt. A tanulmány a Charta ukrajnai alkalmazásának sajátos vonásait mutatja be.

Резюме. Україна в 1999 році ратифікувала Європейську хартію регіональних мов або мов меншин, але Конституційний суд України скасував закон про її ратифікацію. У 2003 році Верховна Рада знову ратифікувала Хартію. З того часу Хартія є підставою для суспільних і політичних дискусій. У статті відображена проблематика ратифікації міжнародного документу, суть та особливості застосування Хартії в Україні.

Abstract. Ukraine had ratified the Charter in 1999, but the Constitutional Court impeded its coming into force. In 2003 Ukraine ratified the Charter again; however, this version of the Charter specifies more restricted rights then the previous one. The implementation of the Charter is still a matter of debate in the country. The list of languages protected by the Charter also raises a few questions. According to the national powers the aim of the Charter is to protect languages near extinction, therefore it could not be extended to the Russian, German, Romanian, Hungarian or Slovak languages. But the Ukrainian language should get the protection, which is in danger in the eastern and southern parts of the country.

Language policy of the independent Ukraine is determined by the following factors:

a) the linguistic situation of the country;
b) the attempt of avoiding social tension;
c) international undertaking of obligations by the country.

In this paper we offer an overview of how these factors influence the implementation of the European Charter for Regional or Minority Languages in Ukraine.

1. Linguistic Situation in Ukraine

In accordance with the Constitution and the Law on Languages Ukraine *de jure* is a monolingual state (see Beregszászi–Csernicskó 2003, 2009, Csernicskó 2005, 2011, Csernicskó–Ferenc 2009, 2010, Melnyk–Csernicskó 2010). However, Ukraine *de facto* is bi- or multilingual.

Some experts (Arel–Khmelko 1996, Khmelko 2004) maintain that Ukraine's population is made up of three lingua-ethnic groups:

(1) Ukrainian speaking Ukrainians (about 40–45% of the country's population);

[*] PhD, Ferenc Rákóczi II Transcarpathian Hungarian Institute.

(2) Russian speaking Ukrainians (about 30–34% of the country's population);
(3) Russian speaking Russians (about 20%).

However, according to the 2001 national census (which focused not only on Ukrainian and Russian populations, but also on other small linguistic groups) the population of Ukraine can be divided into the following groups on the basis of people's native language:

a) People who speak Ukrainian as their native language, including:
   - Ukrainians (by nationality) whose native language is Ukrainian (85% of those who claimed to be Ukrainian);
   - Russians whose native language is Ukrainian (4% of those who claimed to be Russian)
   - National minorities whose native language is Ukrainian (e.g. 71% of the Poles, 42% of the Slovaks who live in Ukraine);
b) People who speak Russian as their native language, including:
   - Russians whose native language is Russian (96% of those who claimed to be Russian);
   - Ukrainians whose native language is Russian (15% of Ukrainians);
   - National minorities whose native language is Russian (e.g. 62% of the Byelorussians);
c) National minorities whose ethnicity and native language are the same (e.g. 95% of the Hungarians, 92% of the Romanians);
d) National minorities who speak the native language of another minority group (e.g. in Transcarpathia 62% of the Roma consider Hungarian to be their native language, this group constitutes 18% of all Roma in Ukraine; Braun–Csernicskó–Molnár 2010: 24–25).

Table 1. **The population of Ukraine according to native language and ethnicity (based on the data from the 2001 national census)**

ethnicity and native language	number of people	%
Ukrainians (by ethnicity) whose native language is Ukrainian	31 970 728	66.27
Russians whose native language is Ukrainian	328 152	0.68
National minorities whose native language is Ukrainian	278 588	0.58
TOTAL NUMBER OF THOSE WHOSE NATIVE LANGUAGE IS UKRAINIAN	***32 577 468***	***67.53***
Russians whose native language is Russian	7 993 832	16.57
Ukrainians whose native language is Russian	5 544 729	11.49
National minorities whose native language is Russian	735 109	1.52
TOTAL NUMBER OF THOSE WHOSE NATIVE LANGUAGE IS RUSSIAN	***14 273 670***	***29.59***
National minorities whose ethnicity and native language are the same	1 129 397	2.34
National minorities who speak the native language of another minority group as their native language	260 367	0.54
TOTAL NUMBER OF THOSE WHO SPEAK MINORITY LANGUAGES	***1 389 764***	***2.88***
TOTAL NUMBER OF SPEAKERS IN UKRAINE	**48 240 902**	**100**

(Source: Csernicskó–Ferenc 2010: 330 and Melnyk–Csernicskó 2010: 17)

If we take into account the native language and ethnicity census data (Figure 1) the following statements can be made:

(a) The percentage of people whose ethnicity is Ukrainian is higher than the percentage of people who speak Ukrainian.

(b) The percentage of people who speak Russian is higher than the percentage of people who consider themselves to be ethnically Russian.

(c) In Ukraine ethnic diversity is greater than linguistic diversity because a number of minority groups have begun to speak Russian or (less frequently) Ukrainian.

Near half of the country's population use the Russian language in everyday practices, 30% of them has Ukrainian as their mother tongue (Besters-Dilger ed. 2008, 2009, Majboroda et al eds. 2008, Masenko 2010, Vorona–Shulha eds. 2007).

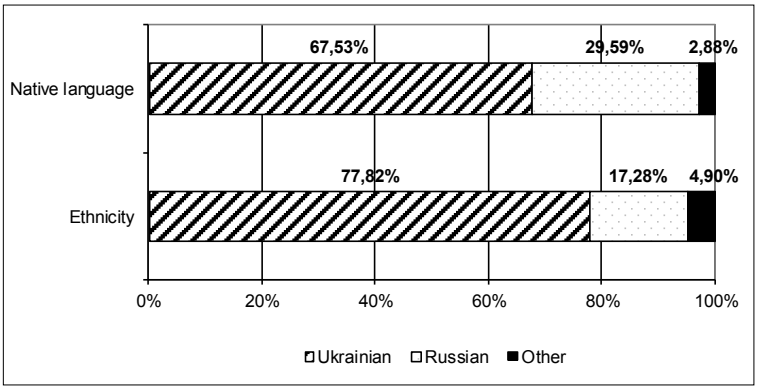

Figure 1. **The population of Ukraine according to native language and ethnicity (2001 national census data, in %)** *(Source: Melnyk–Csernicskó 2010: 16)*

There are significant differences between the ratio of Ukrainians and Russians in concrete administrative regions too (Table 2).

Table 2. **The ratio of those claiming Ukrainian, Russian and Others to be their native language and nationality in Ukraine according to regions based on data from the 2001 national census (in %)**

	Ukrainian		Russian		Other	
	Ethnicity	Mother Tongue	Ethnicity	Mother Tongue	Ethnicity	Mother Tongue
Ukraine, Total	**77,8**	**67,5**	**17,3**	**29,6**	**4,9**	**2,9**
West						
Volyn	96,9	97,3	2,4	2,5	0,7	0,2
Lviv	94,8	95,3	3,6	3,8	1,6	0,9
Ivano-Frankivsk	97,5	97,8	1,8	1,8	0,7	0,4

Table 2 (continued)

Rivne	95,9	97,0	2,6	2,7	1,5	0,3
Ternopil	97,8	98,3	1,2	1,2	1,0	0,5
Chernivci	75,0	75,6	4,1	4,8	20,9	19,6
Zakarpattia	80,5	81,0	2,5	2,9	17,0	16,1
Middle-West						
Khmelnytsk	93,3	95,2	3,6	4,1	3,1	0,7
Zhytomyr	90,3	93,0	5,0	6,6	4,7	0,4
Vynnitsia	94,9	94,8	3,8	4,7	1,3	0,5
Kirovohrad	90,1	88,9	7,5	10,0	2,4	1,1
Cherkasy	93,1	92,5	5,4	6,7	1,5	0,8
Kiyv	92,5	92,3	6,0	7,2	1,5	0,5
Kyiv City	82,2	85,7	13,1	7,9	4,7	6,4
Middle-East						
Dnipropetrovsk	79,3	67,0	17,6	32,0	3,1	1,0
Poltava	91,4	90,0	7,2	9,5	1,4	0,5
Sumy	88,8	84,0	9,4	15,6	1,8	0,4
Chernihiv	93,5	89,0	5,0	10,3	1,5	0,7
South						
Odessa	62,8	46,3	20,7	41,9	16,5	11,8
Mykolaiv	81,9	69,2	14,1	29,3	4,0	1,5
Kherson	82,0	73,2	14,1	24,9	3,9	1,9
Zaporizhzhia	70,8	50,2	24,7	48,2	4,5	1,6
Crimea	24,3	10,1	58,3	77,0	17,4	12,9
City of Sevastopol	22,4	6,8	71,6	90,6	6,0	2,6
East						
Donetsk	56,9	24,1	38,2	74,9	4,9	1,0
Luhansk	58,0	30,0	39,0	68,8	3,0	1,2
Kharkiv	70,7	53,8	25,6	44,3	3,7	1,9

(Source:http://www.ukrcensus.gov.ua/results/general/nationality/ http://www.uncpd.kiev.ua/ucipr/ukr/stat/census/02.php)

Based on sociolinguistic and sociological researches (Zalizniak–Masenko 2001, Vorona–Shulha eds. 2007, Majboroda et al eds. 2008, Besters-Dilger ed. 2008, 2009) it is evident that both Ukrainian and Russian languages are widely used in Ukraine. Significant part of the society uses both languages every day (Alekseyev 2008, Shulha 2008, Visniak 2007, 2008a, 2008b, Medvedev 2007; Table 3).

Table 3. **Language use in the family, the language of thinking and the language of shopping/public places and communicating with colleagues in Ukraine (in %)**

	Language use in the family	The language of everyday thinking	Language use in the street, shops and public places	Communicating with colleagues and language use in workplaces
Exclusively in Ukrainian	28,8	29,3	24,1	22,3
Mainly in Ukrainian , but rarely in Russian too	8,7	8,6	11,7	12,1
In mixed languages, using both Ukrainian and Russian words	19,7	15,7	17,8	17,1
Mainly in Russian , but rarely in Ukrainian too	14,3	10,7	15,6	17,1
Exclusively in Russian	28,0	35,0	30,7	30,2
In other language	0,5	0,7	0,1	0,5

(Based on Visniak (2008b: 81–83))

Nevertheless, it is widely believed that the census results over-simplify the real linguistic landscape (Kotygorenko 2007). If we take into account not only the census data, but also the data of a sociolinguistic survey based on a national representative sample, then the language make-up of the population will show a very different picture. The sociolinguistic research between 1991 and 2003 examined continuously the usage of languages among the adult population of Ukraine, based on a representative sample from approximately 173 thousand interviews, which were conducted to yield comparable data (Khmelko 2004). This study revealed that, from the point of view of ethnicity and native language, we can find different language situations in the different regions of Ukraine. In the five large regions which the author identified, the percentage of those who speak Ukrainian or Russian as their native language, or use a contact variety of the two languages (the so called surzhyk[1]) is very high (see Figure 2).

[1] Originally meaning 'flour or bread made from mixed grains', e.g. wheat with rye. Surzhyk (суржик) is a mixed language of Ukrainian and Russian (Bilaniuk 2003, 2004, 2005), a mixture of Ukraininan substratum with Russian superstratum. Its prestige is low and it often becomes the bane of the purist Ukrainian linguists, who associate low education and dual identity with the speakers of surzhyk (Bilaniuk 2004). This fact is reflected by the entry of surzhyk in the encyclopaedia of the Ukrainian language and some other writings concerning the linguistic situation of the country (see Lenets 2000, del Gaudio–Tarasenko 2008, 2009 et passim).

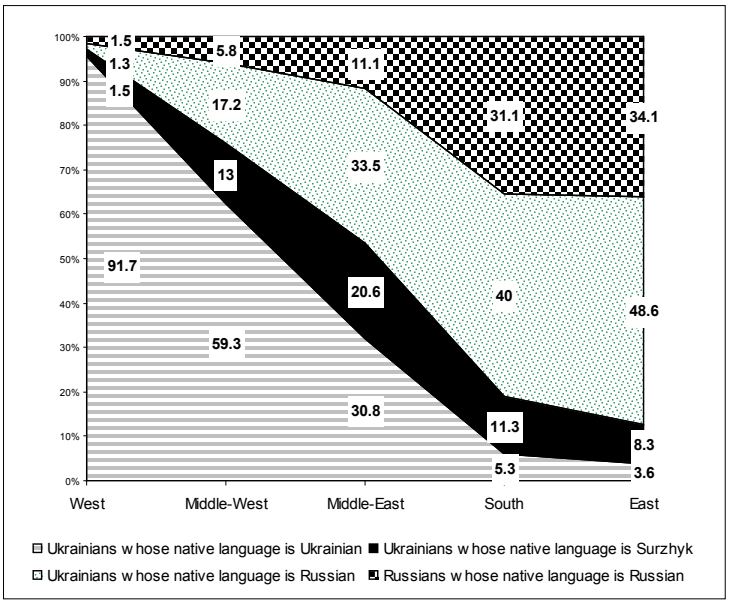

Figure 2. **The distribution of the adult population of Ukraine according to their ethnicity and native language in different regions in 2003 in % (N=22.462)[2]**
(Source: Khmelko (2004))

Regional differences between linguistic preferences are present in the communication with state authority organs, too (Table 4).

Table 4. **The language in which the state authority organs and local authorities communicate with the population in the place of the informant (in %)**

	Acc. to regions				Ukraine totally
	West	Central and North-East Ukraine	South and South-East Ukraine	Donbas and the Crimea	
Exclusively in Ukrainian	79,3	42,0	14,8	0,8	33,0
In Ukrainian or in Russian, according to the citizens' request	4,9	17,6	27,5	14,7	14,7
In Ukrainian or in Russian according to the official's choice	10,3	27,6	26,1	13,9	21,0
Exclusively in Russian	0,9	2,1	22,3	57,4	19,0
No statement	4,6	10,7	9,3	13,1	9,6

(Source: Visniak 2008c: 153)

[2] The West region consists of Volyn, Rivne, Lviv, Ivano-Frankivsk, Ternopil, Zakarpats'ka and Chernivci counties. The Middle-West region is devided into Khmelnytsk, Zhytomyr, Vynnitsia, Kirovohrad, Cherkasy, Kyiv counties and Kyiv City. We can find Dnipropetrovsk, Poltava, Sumy and Chernihiv counties in the Middle-East region. The components of the South region are the following: Odessa, Mykolaiv, Kherson, Zaporizhzhia counties and Autonomous Republic of Crimea with the City of Sevastopol. Kharkiv, Donetsk and Luhansk counties are situated in the East region.

Mykola Soroka's miniature "Ukraine has not died yet…" (Ukraine still lives on)[3] characterises well the contact version of the Ukrainian and Russian languages, the surzhyk. The name of the country is spelling in Ukrainian: Україна, in Russian: Украина. In the middle of the miniature the letters of the two languages are mixed, as different elements of the two languages are mixed in the surzhyk language variant, besides the significant concordances, which characterise the Russian and the Ukrainian language (Figure 3).

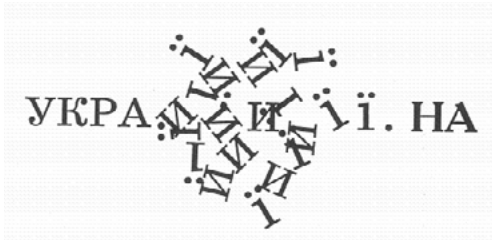

Figure 3. **The conflict of Ukrainian and Russian, their relations in Mykola Soroka's work**

2. Attempts to Avoid Social Tension

From a linguistic perspective we can find gaps between the regions of Ukraine (Arel–Khmelko 1996, Khmelko–Wilson 1998, Kulyk 2008). These gaps have political dimensions too. On the occasion of presidential elections in 2005 and 2010 (and on every occasion of country-wide elections) Ukraine practically had split into two parts (Figure 4 and 5). In general, the mainly Ukrainian speaking western, northern and central regions stand for the one and the Russian dominant eastern and southern parts stand for the other political power (Melnyk–Csernicskó 2010: 72–78).

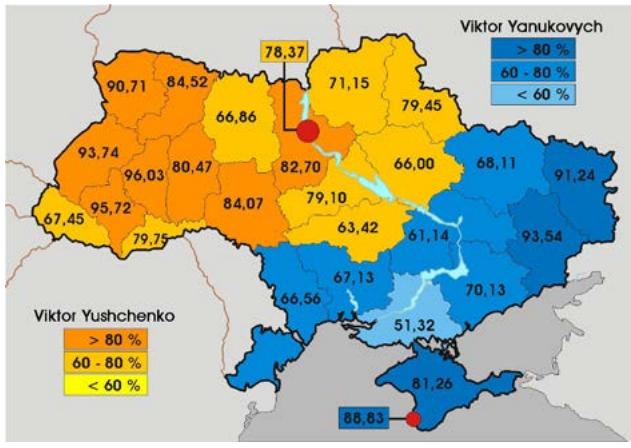

Figure 4. **The political split of Ukraine: presidential election in 2005**

[3] The first words of Ukrainian national anthem*: Ще не вмерла Україна*.

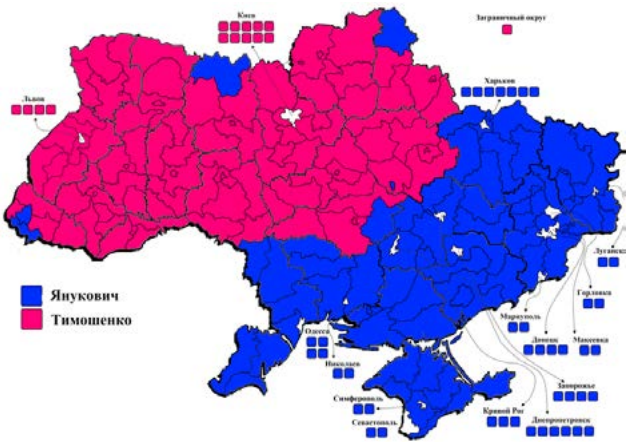

Figure 5. **The political split of Ukraine: presidential election in 2010**

The political situation of Ukraine is explosive and unstable, governments are changing quickly. In the 450 member Parliament the majority often depends on a few votes. The language question has already been a campaign topic at the very first election and saved its importance until now (Kulyk 2008, Zaremba–Rymarenko 2008a).

As a result of the explosive campaigns, which treated the language issue in an exceptional way, a paradox situation carried out concerning the evaluation of the situation and status of languages. Sociological researches proved that in the evidently Ukrainian dominant western part of the country people are afraid of the possibility of the Russian language becoming the second state language, which would wound up the Ukrainian statehood and the Ukrainian language and nation would be imperilled. "It can be stated that the survival of the Ukrainian state depends on the real introduction of the Ukrainian language to every sphere of the state and social life. In the present circumstances language is the guarantee of the national security, the territorial unity, the national identity and the historical memory of the people."– claimed Yushchenko (2010). In the almost exclusively Russian speaking south and east people think that the Ukranification politics endangered the Russian language and identity of the Russians living in Ukraine (see Zaremba–Rymarenko 2008b: 276). The mentioned complex linguistic and political situation has to be handled by the Ukrainian politics. The political powers, whatever position they have during the campaign on the language issue, later try to balance between the linguistically split regions of the country. After winning the elections they do not stick to realise their promises (Kulyk 2008: 53–54).

The tactics was followed by the first president of the independent Ukraine, Leonid Kravchuk as well, who successfully managed to preserve his position from the communist system. Kravchuk did not urge Ukranification, however gave several positions to the national elite, which show considerable achievements in widening the usage of the Ukrainian language in the public administration.

President Leonid Kuchma was the master of the same politics during his 10 years mandatory. In the campaign of the presidential election 1994 in contrast to Kravchuk national rhetoric Kuchma won the election with the promise of strengthening connections with Russia and give official status to the Russian language. On the occasion of the 1999 presidential election Kuchma faced the Russophile communist Petro Simonenko. At that time he proclaimed: Ukraine should have only one state and official language, the Ukrainian.

After the orange revolution (2004) the most important aim of the Ukrainian language policy became the practical enforcement of the Ukrainian language state language status. The political attempt was to solve the tension between the *de jure* (Ukraine is a monolingual state) and the *de facto* situation (the majority of the population speaks more than one language). However, in the eastern and southern regions of the country (where the Russian language is dominated) the national politics has provoked resistance. As a result, on the occasion of the presidential election in 2010 the 'orange' elite was overthrown. Yanukovich won the election, who in his campaign promised to arrange the status of the Russian language. However, when he came to power, he quickly realised that if he keeps on strengthening the status of the Russian language, he will confront the western and northern regions. In a short time he gave up any attempts at making the Russian language the second state language in Ukraine. But in order to live up to his electors' expectations, his supporting political party, the Party of Regions submitted such a draft language law to the Parliament, which ensures the official status of the Russian language practically in the whole territory of the state.[4] Although, the Parliament hasn't dealt with the draft due to the protest of the Ukrainian national powers. Thus status quo remained: Ukrainian language is the only one state language in Ukraine, but the Russian has dominance in several regions of the country and controls the popular culture and media.

As we can see the language issue in Ukraine is highly polarized and emotionally loaded. That political power which wants to change the present-day status quo will confront with one half of the country in every case. It is not accidental that in Ukraine in the last 15 years no law was accepted which directly focuses on the status of minorities or languages. The ratification of two international documents was the only exception (Framework Convention for the Protection of National Minorities and European Charter for regional or minority languages).

3. Ukraine's International Undertaking of Obligations

After becoming independent form the Soviet Union in 1991 Ukraine's point was the international integration. In order to stabilize its international position the young Ukrainian state endeavours to adopt the European agreements on minority protection. For example, one of the prerequisites of the country's accession to the Council of Europe was the ratification of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

[4] See the draft version on the following website: http://gska2.rada.gov.ua/pls/zweb_n/webproc4_1?id=&pf3511=38474

The Framework Convention was ratified by Ukraine on 9 December 1997.[5] The ratification of the Charter happened on 24 December 1999.[6] However the document did not come into force. The law of ratification was repealed by the Constitutional Court on 12 July 2000.[7] The Constitutional Court referred to formal mistakes as the bases of the decision. According to the resolution the law of ratification was signed and proclaimed by the President of the Parliament and not by the President of the state (Kresina–Yavir 2008: 190–196). Until this decision every law of ratification was signed by the President of the Parliament in Ukraine. But the resolution of the Constitutional Court repealed only this law of ratification. The political attempt was to show Ukraine's intention to meet the international obligations: that is why they formally ratify the Charta. However the Charter's coming into force was not wanted, because its implementation could endanger the balance of the linguistic situation.

After that several draft versions of the ratification law were developed in Ukraine (Kresina–Yavir 2008: 196). However the next ratification of the Charter happened only on 15 May 2003.[8] With the ratification the calvarias of the Charter has started in Ukraine (see the detailed explanation of this issue in Alekseev 2008, Melnyk–Csernicskó 2010: 37–45).

4. The European Charter for Regional or Minorities Languages in Ukraine

The Charter was signed by Ukraine on 2 May 1996 and ratified by the Ukrainian Parliament on 15 May 2003. The ratification instrument was lodged on 19 September 2005. The Charter treaty became effective for Ukraine on 1 January 2006.

The circumstances of the Ukrainian implementation of the Charter are marked by the statement written in the first Periodical Report from 2007 (which can be found of the Ministry of Justice's website[9]): "Ukraine admitted that because of the deficient translation of the Charter the ratification caused a lot of political,

[5] Закон України Про ратифікацію Рамкової конвенції Ради Європи про захист національних меншин. The text of the law in available in Ukrainian language on the following website: http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=703%2F97-%E2%F0&zahyst=4/UMfPEGznhht8a.Zi8vgZ5iHI47ks80msh8Ie6

[6] Закон України Про ратифікацію Європейської хартії регіональних мов або мов меншин, 1992 р. The text of the law in available in Ukrainian language on the following website: http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1350-14

[7] 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.) N 9-рп/2000. Fort he resolution of the Constitutional Court see the following website: http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=v009p710-00

[8] Закон України Про ратифікацію Європейської хартії регіональних мов або мов меншин. The text of the law is available on the following website:http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=802-15&zahyst=dCCMfOm7xBWMt8aEZi8vgZ5iHI47ks80msh8Ie6

[9] Перша періодична доповідь України про виконання Європейської хартії регіональних мов або мов меншин. Київ, 2007. http://www.minjust.gov.ua/files/dopovid_20_04_2007.zip

juridical and social problems" (p. 2). The same appeared in the legal statement given by the Ministry of Justice on10 May 2006.[10]

On the fourth page of the Committee of Experts' Evaluation Report we can also read that the Ukrainian authorities and representatives of speakers made reference to translation problems in the Ukrainian version of the Charter, and we are therefore invited to provide a new translation of the Charter into Ukrainian. (The State Periodical Report of Ukraine[11], the Committee of Experts' evaluation report[12] and the Committee of Ministers' Recommendation[13] see in web-site of Council of Europe.)

As the reason behind the deficient translation politicians indicated that the translators used the Russian version as the source of the translation, and not the original English or French text (Kresina–Yavir 2008: 197).

Referring to the deficient translation several problems are arising concerning the implementation of the Charter in Ukraine (Kresina–Gorbatenko 2008: 338, Kresina–Kavir 2008).

The most often mentioned problem is the misunderstanding of the aims of the Charter.

The Charter protects the languages of the following 13 national minorities: Russians, Byelorussians, Moldavians, Crimean Tatars, Bulgarians, Hungarians, Romanians, Poles, Jews, Greeks, Germans, Gagauzes and Slovaks. The protected languages and their communities are in considerably different sociolinguistic positions (Table 5).

Table 5. **The population of Ukraine with regard to the native language based on the data from the 2001 national census**

Ethnicity	Pupils	In %	The coincidence of nationality and native language	
			Pupils	In %
Ukrainians	37541693	77,82	31970728	85,16
Russians*	8334141	17,28	7993832	95,92
Byelorussians *	275763	0,57	54573	19,79
Moldavians*	258619	0,54	181124	70,04
Crimean Tatars*	248193	0,51	228373	92,01
Bulgarians*	204574	0,42	131237	64,15
Hungarians*	156566	0,32	149431	95,44
Romanians*	150989	0,31	138522	91,74

[10] 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 від 10 травня 2006 року. The document can be found here: http://www.minjust.gov.ua/0/7477

[11] http://www.coe.int/t/dg4/education/minlang/Report/PeriodicalReports

[12] http://www.coe.int/t/dg4/education/minlang/Report/EvaluationReports

[13] http://www.coe.int/t/dg4/education/minlang/Report/Recommendations/Ukraine

Table 5 (continued)

Poles*	144130	0,30	18660	12,95
Jews *	103591	0,21	3213	3,10
Armenians	99894	0,21	50363	50,42
Greeks*	91548	0,19	5829	6,37
Tatars	73304	0,15	25770	35,15
Gypsies	47587	0,10	21266	44,69
Azerbaijanis	45176	0,09	23958	53,03
Georgians	34199	0,07	12539	36,66
Germans*	33302	0,07	4056	12,18
Gagauzes*	31923	0,07	22822	71,49
Koreans	12711	0,03	2223	17,49
Uzbeks	12353	0,03	3604	29,18
Chuvashes	10593	0,02	2268	21,41
Slovaks*	6397	0,01	2633	41,16
Others	323656	0,67	46933	14,50
Total	**48240902**	**100**	**41093957**	**85,18**

* – Languages goes under the protection of the Charter

According to the majority of the Ukrainian political elite and professional circles the aim of the Charta is defined as to protect endangered languages (in their views languages near extinction). They think that the Charter protects languages which have only a few native speakers and therefore can disappear from the linguistic landscape of Europe. The mentioned opinion was presented in the parliament debate of the ratification (Kresina–Yavir 2008: 198).

The legal statement of the Ministry of Justice in 2006[14] established that Ukraine has to protect the languages near extinction instead of protecting languages of national minorities (Kresina–Gorbatenko 2008: 338).

According to experts the protection of the Charter cannot extend to those languages, which have state language status in another country (Kresina–Yavir 2008: 198). Among the above-mentioned 13 languages 10 (the Russian, Byelorussian, Moldavian, Romanian, Hungarian, Polish, German, Greek, Slovak, Jewish) are state languages in other countries, thus Ukraine protects only the Gagauz and Crimean Tatar languages in conformity with the original concept of the Charter. However, it is strongly doubtful that Denmark, the Czech Republic, Slovakia, Hungary, Romania, Slovenia, Croatia, Serbia, Switzerland, Austria, Finland and Armenia without exception misunderstood the spirit of the Charter. Since the listed countries extended the protection of the Charter for such languages which are used as state languages in other countries and directly are not near extinction.

[14] Юридичний висновок… http://www.minjust.gov.ua/0/7477

However as minority languages in the given state they are needed to be protected. For example the German language which has approximately 100 million native speakers and it is used in several countries as an official language, in Denmark, the Czech Republic, Slovakia, Romania is under the protection of the Charter. In Romania, Serbia and Croatia the Ukrainian language is also protected in the same way (Melnyk–Csernicskó 2010: 43).

Other problems can also be formulated concerning the languages protected by the Charter in Ukraine. Among the 13 languages which are under the protection of the Charter ratified by Ukraine we can find the *Jewish language* (according to the law: *„мова єврейської національної меншини"*, so „the language of the Jewish national minority"). With that not the Yiddish language became the subject of the law, which is spoken by a part of the Ukrainian Jews (Kotygorenko 2007: 144), but a linguistically undefined category (Kresina–Yavir 2008: 204).[15] Otherwise the 83% of the Ukrainian Jews confess Russian as their mother tongue, and only 3% claim themselves as a Yiddish native speaker.

It is also disputable that the law mentioned the Moldavian and Romanian language separately. The Soviet Union proclaimed the Romanians living on the territory of the former Bessarabia and Bucovina as Moldavians (Zaremba–Rymarenko 2008b: 262, 278). The Independent Ukraine follows the same practice: makes distinction between Moldavian and Romanian people and language (Melnyk–Csernicskó 2010: 84–85). Moldavia however confesses the Romanian language as its own state language. Thus, in theory, the Moldavian and the Romanian language are not two autonomous languages.

There is also a debate on the interpretation of the expression „the language of the Greek national minority" which appeared in the ratification law. The neo Greek language used in the present-day Greece as an official one is not the same that the Ukrainian Greeks are speaking. This language variant is called as *Urum language* (урумська мова) in Ukraine. It is not clear whether Ukraine wants to protect the Greek language or the dialect of the Ukrainian Greek community (Zaremba–Rymarenko 2008b: 264).[16]

Some people think that the ratification of the Charter was developed definitely against the Ukrainian language and for supporting the Russian in Ukraine (Kresina–Yavir 2008: 198). It is an often arising viewpoint that the Russian language shouldn't appear in the ratification documents at all.[17] They say that almost half of the population use the Russian language in everyday practices, that is why protecting the language by the Charter is unreasonable (Kulyk 2008: 30). Instead of it in certain regions of Ukraine the Ukrainian language needs to be protected

[15] Юридичний висновок… http://www.minjust.gov.ua/0/7477
[16] Юридичний висновок… http://www.minjust.gov.ua/0/7477
[17] Юридичний висновок… http://www.minjust.gov.ua/0/7477

(Kresina–Yavir 2008: 197–199). This point was included in a draft language policy conception commissioned by the government too.[18]

According to another opinion the implementation of the Charter should be postponed and a new law of ratification should be developed (Shemshuchenko–Gorbatenko 2008: 162). In the new law the list of languages which need to be protected should be revised and stated precisely.

Experts claimed that the Armenian, Karaim, Krymchak and Roma languages are missing from the list of protected languages.[19]

The seriousness of the problems around the Charter's implementation is shown by the fact that in 2004 46 Members of the Parliament asked to declare the law of ratification of the Charter anti-constitutional. According to the Members of Parliament the ratification of the Charter burdens Ukraine financially, and during the ratification this was not taken into account. However, the Constitutional Court refused the discussion of the petition[20] (Kresina–Yavir 2008: 200–201).

In 2006 spring such events happened in Ukraine, with reference to which the opposers of the Charter can say that their warnings were proved. In Sevastopol the local authorities declared the Russian language as regional language on their territory. According to the Charter the regional language can be freely used in administration, culture, education, etc. The decisions were cancelled as anti-constitutional and unlawful by the Ministry of Justice on 10 May 2006.[21] The main reason was that according to the Paragraph 92 of the Constitution the status of languages can be changed only by law.

Among the reasons opposing the Charter there is one more considerable, concretely that terms and expressions used in the international documents do not exist in the Ukrainian legal system. The Constitution of Ukraine and its laws contain only the terms of *state language* and *languages of national minorities.* Proclamation of the Constitutional Court dated on the 14th of December, 1999 under the number 10-рп/99[22] made equal the term *state language* with the term *official language*. Expressions used in the Charter like *minority language, regional language* are missing from the Ukrainian legal system (Kresina–Yavir 2008: 196). It was

[18] *Концепція мовної політики.* Київ: Національні комісія зі зміцнення демократії та утвердження верховенства права, 2006. http://www.minjust.gov.ua/files/11.7.06_3.doc

[19] Юридичний висновок… http://www.minjust.gov.ua/0/7477

[20] Ухвала Конституційного Суду України про відмову у відкритті конституційного провадження у справі за конституційним поданням 46 народних депутатів України щодо відповідності Конституції України Закону України „Про ратифікацію Європейської хартії регіональних мов або мов меншин" від 19. 02.04. http://www.ccu.gov.ua/pls/wccu/P000?lang=0

[21] Юридичний висновок… http://www.minjust.gov.ua/0/7477

[22] Рішення Конституційного Суду України у справі за конституційним поданням 51 народних депутатів 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 від 14.12.1999 р. № 10-рп/99. http://zakon.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=v010p710-99

partly the reason of the cancellation, because the Eastern-Ukrainian cities referred to the Russian language as a regional language.

Those, who argue like that, forget about the fact that at the moment of the ratification of the Charter, the international document became the part of the country's legal system and the Charter gives precise definitions of both terms *minority language* and *regional language*.

Opposers protest against the Charter despite the fact that the new ratification can be seen as a setback in comparison to the country's previously codified rights. The version adopted in 2003 significantly narrows the sphere of minority language use in comparison with the 1999 version (Table 6). Pulling out is particularly significant in the field of education.

Table 6. **European Charter for Regional or Minority Languages, by Ukraine: the Bill of 1999 and 2003**

	Bill N 1350-XIV, 1999 **(20% threshold)**	**Bill N 802-IV, 2003** **(without exact ratio)**
Part I: General provisions	In all	In all
Part II: Objectives and principles pursued in accordance with Article 2, paragraph 1	In all	In all
Part III: Measures to promote the use of regional or minority languages in public life in accordance with the undertakings entered into under Article 2, paragraph 2		
8. Education		
1.		
a) pre-school education	a (i), a (ii), a (iii)	a (iii)
b) primary education	b (i), b (ii), b (iii)	b (iv)
c) secondary education	c (i), c (ii), c (iii)	c (iv)
d) technical and vocational education	d (i), d (ii), d (iii)	–
e) higher education	e (i), e (ii)	e (iii)
f) adult and continuing education courses	f (i), f (ii)	f (iii)
g)	g	g
h)	h	h
i)	I	i
2.	2.	2.
9. Judicial authorities		
1.		
a)	a (ii), a (iii)	a (iii)
b)	b (ii), b (iii)	b (iii)
c)	c (ii), c (iii)	c (iii)
d)	–	–
2.		
a)	–	–
b)	–	–
c)	c	c
3.	3.	3.
10. Administrative authorities and public services		
1.		
a)	a (i), a (ii), a (iii)	–
b)	–	–
c)	c	–

Table 6 (continued)

2.		
a)	a	a
b)	b	–
c)	–	c
d)	d	d
e)	e	e
f)	f	f
g)	–	g
3.		
a)	a	–
b)	b	–
c)	c	–
4.		
a)	–	–
b)	–	–
c)	c	c
Point 5	In all	–
11. Media		
1.		
a)	a (ii), a (iii)	a (iii)
b)	b (ii)	b (ii)
c)	c (ii)	c (ii)
d)	d	d
e)	e (i), e (ii)	e (i)
f)	–	–
g)	g	g
2.	2.	2.
3.	3.	3.
12. Cultural activities and facilities		
1.		
a)	a	a
b)	b	b
c)	c	c
d)	d	d
e)	–	–
f)	f	f
g)	g	g
h)	–	–
2.	2.	2.
3.	3.	3.
13. Economic and social life		
1.		
a)	a	–
b)	b	b
c)	c	c
d)	d	–
2.		
a)	–	–
b)	b	–
c)	c	–
d)	–	–
e)	–	–
14. Trans-frontier exchanges		
a)	a	a
b)	b	b
Part IV: Application of the Charter	In all	In all
Part V: Final provisions	In all	In all

The fact that there is no elaborated execution mechanism of the Charter in Ukraine also makes its implementation difficult. No law or decree was developed for the local authorities, which is determined unambiguously that in the given administrative unit to what languages can the Charter be extended. Vadim Kolesnichenko, Member of the Parliament, the author of the alternative social report of the official Periodical Report, also mentions this deficiency.[23]

The law of ratification does not define the concrete threshold which the national minorities have to reach in order to apply for the protection of the Charter. In practice, it means that minority language use in Ukraine is regulated by the language law (adopted in 1989) and not by the Charter. The language law, however, stipulates that the language of the minority can be used besides the state language only if members of the national minority make up the majority. Thus, the prerequisite ratio of the use of minority languages is very high, 50%.

5. Conclusion

Ukraine tries to keep its international undertaking of obligations. It ratified the Framework Convention and the Charter, too. The country endeavours to rearrange its own legal system according to the international recommendations and norms. However the legal harmonization does not go smoothly due to the inner political conflicts and complex linguistic situation. This frequently makes difficult or even impossible the practical implementation of the rights. However the political elite of the country does not make genuine efforts to foster the real protection of minority languages. The fact that Ukraine narrows the already existing minority rights in certain aspects is radically opposed to the intention and spirit of international agreements, recommendations. The country often refers to the fact that the Ukrainian language is in danger.

The Ukrainian language policy almost exclusively focuses on the Ukrainian-Russian dimension of jockeying for ethnic, linguistic, social and economic positions. The situation of the other minorities appeared in public discourse only shallowly. The linguistic question has become so strongly politicized, that it makes impossible to adopt the new version of the out-of-date minority and language law, and to carry out the expert and conforming settlement of the situation of ethnic and linguistic minorities. But the social tension around the linguistic situation prevents experts from dialogue on linguistic issues as well.

The Charter in Ukraine has become the victim of local political fights. The Ukrainian political elite is interested in maintaining the social order by preserving the linguistic status quo, since any kind of change in the situation of either the Russian or the Ukrainian language causes political and social tension. This makes the practical implementation of the Charter impossible in the country.

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[23] Общественный отчет по выполнению Европейской хартии о региональных языках или языках меньшинств. The document can be found here: http://www.from-ua.com/politics/e62743796b72a.html

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