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TERRITORIAL-ADMINISTRATIVE DECENTRALISATION AND ETHNO-CULTURAL DIVERSITY IN UKRAINE: ADDRESSING HUNGARIAN AUTONOMY CLAIMS IN ZAKARPATTYA

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TERRITORIAL-ADMINISTRATIVE DECENTRALISATION AND ETHNO-CULTURAL DIVERSITY IN UKRAINE: ADDRESSING HUNGARIAN AUTONOMY CLAIMS IN ZAKARPATTYA[1]

The paper argues firstly that, since there is no obvious separatist movement within Zakarpattya, the Ukrainian state should seek as far as possible to accommodate Hungarian identity claims within the region (and those of other smaller minority communities living within the state) as part of a normative and instrumental strategy of promoting 'unity in diversity'. Secondly, it argues that Ukraine's current concept of decentralization offers space to realise the non-territorial vision of cultural autonomy, provided that sufficient attention is also given to maintaining pre-existing territorially-based provisions with regard to minority language use and political representation for Hungarians at both regional and national level.

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I. INTRODUCTION

When a new government was formed in Ukraine following the February 2014 Euromaidan Revolution, it quickly declared administrative-territorial reform to be one of its key priorities within a general programme of democratisation and closer association with the European Union (EU). After more than two decades of largely unsuccessful attempts to do away with the highly centralized state mechanism inherited from the USSR and enable more effective decision-making and initiative on a local level, a Concept on Local Governance and Reform of Territorial Organization was promptly adopted in April 2014. On the basis of this concept, processes of administrative decentralisation have begun to take shape over the past two years, despite the Ukrainian government's *de facto* loss of control

over Crimea and the ongoing conflict in the eastern Donbas region sustained by the Kremlin's sponsorship and intervention on behalf of Donetsk and Luhansk 'People's Republics'.

The 2014 Revolution and subsequent crisis have also brought into focus other issues related to consolidation of political community in Ukraine, not least the need to better accommodate 'various ethnic, linguistic, religious and socio-economic identities and cleavages' that have persisted since Ukraine became independent since 1991.[2] Political manipulation of these identities (external, but also internal during the rule of President Yanukovich and his predecessors) has encouraged an outside perception of conflict between a 'Ukrainian West' and 'Russian East' that occludes a far more complex picture of regional diversity. Among other things, the predominant focus on the relative positions of Ukrainian and Russian language and culture within debates on nation-building has drawn attention away from issues relating to a wide range of smaller ethno-cultural and ethno-linguistic minority communities living within the state.

In keeping with its goal of closer association with the European Union, the post-Maidan Ukrainian government adopted the EU motto of 'Unity in Diversity' as a guiding principle for consolidation of the political community. This implied adherence to the minority rights norms propounded by the Union and it cognate organisations in this area, the Council of Europe and OSCE. Broadly speaking, these seek to ensure that persons belonging to ethno-cultural minorities within member states should enjoy full rights as citizens – including possibilities to participate meaningfully in public life - while simultaneously preserving their distinct identities.

The norms and arrangements embodied by this minority rights 'regime', however, remain necessarily vague and contested, and the overall readiness of individual states to accommodate minority claims contingent upon domestic political factors as well as the geostrategic environment in which the state finds itself at a given time.[3] In this regard, one can hardly underestimate the challenges of implementing diversity policies within present-day Ukraine. With Russia controlling parts of the east and south of the country, and overall issues of constitutional reform still linked to implementation of the stalled Minsk II agreement, reform proposals in this area are inevitably assessed not on basis of their own legal merits, but in terms of their possible implications for security, sovereignty and territorial integrity. This remains the case even where such proposals are presented in terms of decentralisation and cultural rights rather than the far more contentious discourse (promoted by Russia) of federalisation.[4]

Leaving aside the more obvious 'hot spots' of Crimea and Donbas, ethnic, linguistic and regional cleavages have since 2014 also acquired a particular sensitivity in Ukraine's westernmost region of Zakarpattya. Here, leaders of the small but compact and politically mobilised Hungarian community living contiguously to the border with Hungary have found themselves at odds with the regional and national government over a renewal of claims (first articulated back in 1991 during the dissolution of the USSR and transition to Ukrainian independence) for an autonomous Hungarian district. The present paper discusses the specifics of this case, using it to reflect more broadly on the relationship between territorial-administrative decentralisation and ethno-cultural diversity in Ukraine, and to

consider how some of the issues and challenges that have come to light might best be addressed going forward.

The paper argues firstly that, since there is no obvious separatist movement within Zakarpattya, the Ukrainian state should seek as far as possible to accommodate Hungarian identity claims within the region (and, indeed, those of other smaller minority communities living within the state) as part of a normative and instrumental strategy of promoting 'unity in diversity'.[5] The specific Hungarian claim can also be seen as consistent with Article 6 of Ukraine's existing 1992 Law on National Minorities, which refers to the right of 'national-cultural autonomy' (hereafter NCA). To date, however, this law has remained largely declaratory, and there is therefore no single accepted definition of the NCA concept within a Ukrainian context. Discussions are now underway as to how to give this concept more concrete legislative shape. Our paper suggests that the current Hungarian minority proposal for *national-territorial* autonomy – aside from being politically contentious – is impractical and also potentially problematic in terms of promoting fuller integration of the region into the framework of the Ukrainian state. Instead, we argue, the NCA issue is best approached through a *non-territorial* strategy that avoids any explicit institutional linkage between ethnicity and territory. Non-territorial autonomy is a concept that lacks any single clear definition and denotes a 'multiplicity of organisational forms'.[6] Broadly speaking, however, it denotes a system whereby ethno-cultural minorities organise themselves as communities of persons and establish institutions that enable them to autonomously handle issues relevant to preservation of their particular identity within a territorial space shared by different ethnic communities. It is highlighted as one possible approach to reconciling the 'recurrent tension' that exists within international law between the right to self-determination of peoples (first enunciated in the aftermath of World War One) and the territorial integrity of existing states, as well as the associated question (still central to current debates on the 'European Minority Rights Regime') of whether cultural rights and rights of self-determination should be attached to communities at all, or should rather apply only to individuals.[7]

Our paper argues that – on paper, at least – Ukraine's current concept of decentralization offers space to realise this non-territorial vision of cultural autonomy, provided that sufficient attention is also given to maintaining pre-existing territorially-based provisions with regard to minority language use and political representation for Hungarians at both regional and national level. Institutional blueprints are of course one thing, securing the political conditions for their realisation quite another. In this regard, our analysis suggests that prospects for such a reform are undermined not only by the current geostrategic context (and attendant concerns about Ukraine's sovereignty and territorial integrity), but also by a weakly developed culture of deliberative democracy and a continued tendency by ruling elites to instrumentalise ethnic identities and cleavages in an effort to block reform and preserve their own personal interests and authority.[8] As regards the deliberative dimension, at least, recent literature as well as practical experience elsewhere suggest that NCA institutions can also play a positive role in terms of building inter-ethnic trust and giving 'voice' to minorities within the wider policymaking process, by functioning as interlocutors with state and local authorities within consultative bodies.[9] Ukraine already has some

experience of such frameworks, as seen most notably in the example of the Crimean Tatar Qurultay/Mejlis. NTA arrangements found in other post-communist states such as Serbia might also be instructive when looking at the current situation in Ukraine.[10]

II. UKRAINE'S TERRITORIAL ADMINISTRATIVE REFORM

The Concept on Local Governance and Reform of Territorial Organization adopted by Ukraine in April 2014 set the tasks of defining a well-founded territorial basis for the activity of local self-governments in the country and of establishing appropriate material, financial and organizational conditions for execution of their responsibilities. The Concept provides for the continued existence of 27 large administrative-territorial regions[11], but aims to amalgamate 31,000 pre-existing villages and townships into larger 'capable territorial communities' (*hromady* – 1500-1800 in total to be created). Districts (*raiony*) are to be retained as intermediate-level structures between *hromady* and regions, but the number of these is to be reduced from the current 490 to between 120 and 150. It is envisaged that this will be achieved in the first instance through a process of voluntary unification led by the villages and townships themselves, though in consultation with the authorities of the relevant region, which draw up and approve overall 'perspective plans' for submission and final approval by central government.

Although 25 of Ukraine's regions have already submitted perspective plans at the time of writing[12], various problems have arisen: some of the new territorial communities proposed at local level have been deemed not to possess the material and budgetary capacities necessary to ensure self-sufficiency; in some cases individual villages and towns have also sought to delay or abstain from unification,[13] while in others regional councils have attempted to block perspective plans elaborated by their administrations. In light of these issues, further legislation designed to speed up the formation of capable communities was proposed in December 2015.[14]

Also, while the decentralisation process refers to the need to take into account 'historic, natural, ethnic and cultural factors influencing the socio-economic development of the united territorial community',[15] the focus of current reforms has been on ensuring economic viability and capacity of new units, rather than on issues of diversity accommodation.[16] The implication here seems to be that if the new territorial communities envisaged under the reform are recognized as economically capable, they will be able to accommodate the needs of national minorities living within them. This view has been contested in Ukraine's westernmost region of Zakarpattya – the only one currently under the remit of the Ukrainian government that has yet to have its perspective plan approved – where the reform process has seen a recent revival of calls to establish a 'national district (*raion*)' catering specifically for the Hungarian-speaking minority that lives mostly compactly in the westernmost districts of Zakarpattya lying adjacent to the border with Hungary. The rejection of this proposal by the regional authorities has resulted in an impasse: at the time of writing, existing local authorities in the Hungarian area of settlement have yet to engage with the 2014 Concept on Local Governance.

III. HUNGARIAN MINORITY CLAIMS IN ZAKARPATTYA

Zakarpattya is one of the most ethnically diverse regions in Ukraine. According to the last all-Ukraine census, Hungarians constitute the second largest ethnicity (12.1% of the population) after Ukrainians, followed by Romanians (2.6%), Russians (2.5%), Roma (1.1%), Slovaks (0.5%) and Germans (0.3%).[17] For the most part compactly settled in areas adjacent to the border with Hungary (see Figure 1), the Hungarian minority has retained a strong sense of identity.

Figure 1: Distribution of Hungarian-speakers in Zakarpattya Oblast (State Statistics Committee of Ukraine)
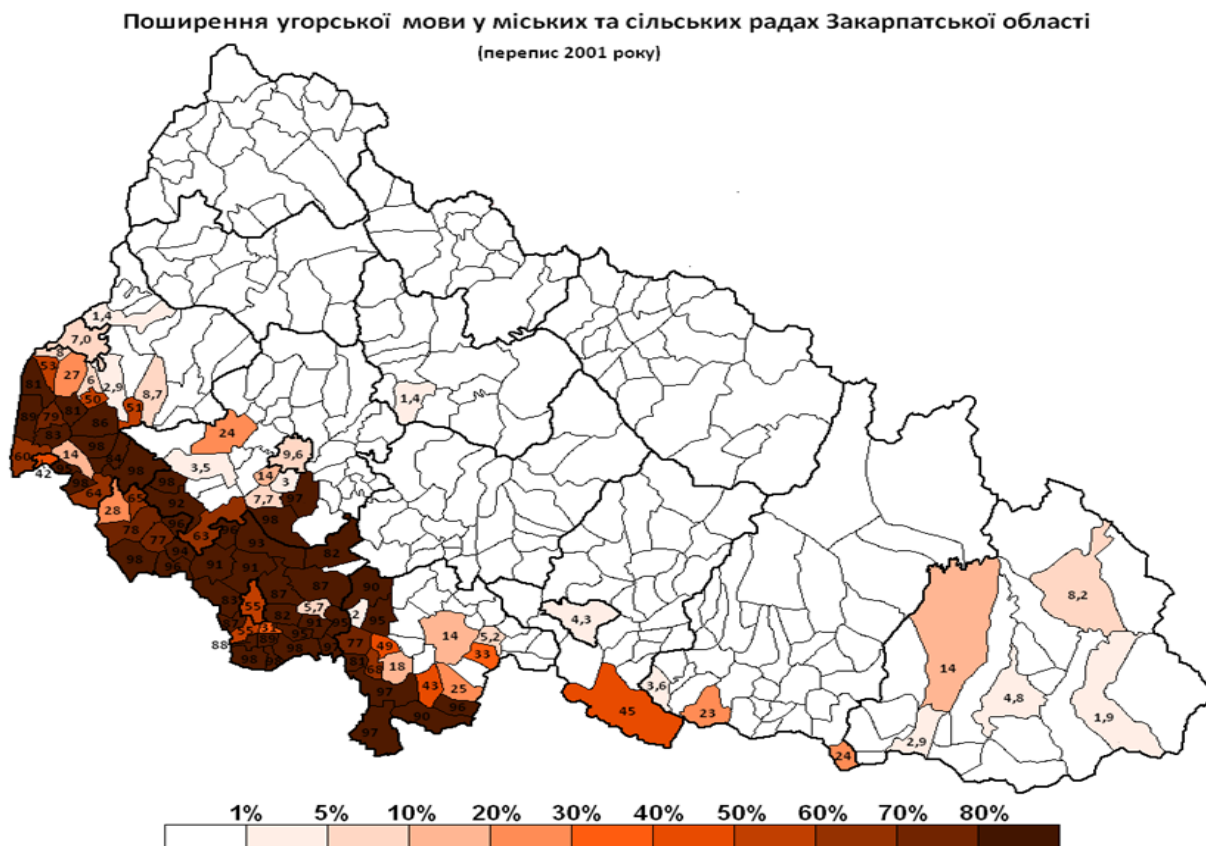
Institutional support for Hungarian language and culture, including in the form of educational provision has been carried over into independent Ukraine. However, the nature of the Soviet system meant that pupils receiving education in Hungarian learned Russian (the *lingua franca* of the USSR as a whole) as a second language, rather than Ukrainian. Today, levels of Ukrainian language proficiency among graduates from schools with Hungarian language instruction remain low.[18] In what is otherwise a mainly Ukrainian-speaking region, this can be seen as an

issue to be addressed in terms of segregation of public life and integration of the local population into the framework of an independent Ukraine.

Today, the Hungarian minority is represented by two political parties: The Democratic Union of Hungarians of Ukraine (add full name in Hungarian - hereafter UMDSZ) and The Community of Hungarian Culture of Zakarpattya (add full name in Hungarian - hereafter KMKSZ).[19] Previously rivals for the ethnic Hungarian vote, the two parties signed a cooperation agreement in September 2015 ahead of elections to the Zakarpattya regional council.[20] On this basis they were able to significantly boost the representation of Hungarians at regional level, obtaining 12.5% of the vote and 8 seats, the largest number held by Hungarian deputies since 2002.

During the process leading to dissolution of the USSR in late 1991, political mobilization amongst Hungarians in Zakarpattya brought calls – reflecting pre-existing Soviet approaches of ethno-territorial federalism – for the establishment of an autonomous Hungarian district within the region. In a disputed referendum organized in December 1991, 81.4% of voters in the mostly Hungarian-populated Berehovo *raion* expressed their support for the proposal, which was discussed at the level of the regional council, but never submitted for consideration by the Ukrainian Parliament.[21] Subsequent to this, Hungarian minority leaders lobbied unsuccessfully for the creation of a single district (to be named 'Prytysyanskyi *raion*') that would unite territories populated by the Hungarian minority within the existing Berehovo, Uzhhorod, Mukachevo and Vynohradiv districts and in which Hungarians would comprise 72% of a total population of 155,000.[22]

This claim for a Hungarian national district has been revived following the Euromaidan Revolution, within the context of current debates on decentralization. A proposal along these lines was put forward in December 2015 at a meeting of the NGO 'Organization of the Borderland Local Authorities'. According to Karolina Dorchi, head of the KMKSZ faction in the city council of Berehovo, 114 villages and towns encompassing 170.000 residents of Zakarpattya region had already declared their willingness to establish such an entity, 'not for the purpose of reaching some political goals, but, first and foremost, for ensuring stable economic development of this territorial community and Zakarpattya in general'.[23]

In response to this idea, a representative of the Zakarpattya Regional Office of Reforms[24], Oleh Luksha, emphasized that since the new capable territorial communities envisaged under the official reform concept would have the funds and authority necessary for developing economic cooperation, there was no reason to establish a larger unit catering specifically for the needs of the Hungarian minority. Moreover, Luksha stressed that there is no legislation currently in force in Ukraine that would allow for the establishment of national *raiony* within the decentralization process.[25] This point was later reiterated by Hennadiy Moskal, appointed as Governor of Zakarpattya in July 2015, who stated that 'Hungarians may meet and discuss all possible things, but [the establishment of a Hungarian district] does not have a constitutional basis'.[26] Moskal took this line notwithstanding the fact that the Petro Poroshenko Bloc faction (PPB) which he heads within the Regional Council is currently allied with the bloc of Hungarian deputies sitting there.[27]

While establishment of autonomous

ethno-territorial units was a central pillar of the top-down system for management of ethnic diversity within the USSR, well-functioning examples within democratic states are few and far between. Nor are there any clearly-defined provisions for the establishment of such units within current (albeit vaguely defined) international norms on minority rights.[28] Ethno-territorial arrangements implicitly assign 'ownership' of a particular sub-region to a particular ethno-cultural group; however, since it is seldom if ever possible to make political boundaries congruent with ethnic ones, ethno-territorial autonomy typically leads to the creation of 'new' minorities within the sub-polity in question.[29] The language use patterns seen in Figure 1 above illustrate this contention very well. Furthermore, claims 'from below' for ethno-territorial autonomy within existing unitary states are invariably viewed as highly unwelcome by the government concerned, which tends to frame them as a threat to its sovereignty and – in some geostrategic conditions - to the territorial integrity of the state as a whole.

Current circumstances in Ukraine mean that such claims are especially sensitive at the present time. In the specific case of Zakarpattya, they are exacerbated by an historic legacy of territorial contestation and border changes in the region during the 20th century, and by the presence of activists demanding official recognition for a distinct *Rusyn* or Ruthenian nationality group within the local population. The existence of a Rusyn national minority has been acknowledged in neighbouring countries of the region, but this status has hitherto been denied within Ukraine, where authorities deem Rusyns to be part of the Ukrainian nation, with a distinct regional identity and speaking a distinct dialect. While levels of mobilisation around this identity are currently low in Zarkarpattya, the movement has in the past been courted by local politician and businessman Viktor Baloha, who previously headed the regional administration during the 1990s and whose regionally-based United Centre party currently holds the largest number of seats in the regional council – 19 compared to only 15 for the Petro Poroshenko Bloc. The United Centre is one of the parties currently blocking the adoption of a perspective plan for the region. Any alignment between the PPB and Hungarian parties in Zakarpattya can therefore be countered with threats to revive talk of autonomy for the region as a whole, which also formed the object of a disputed referendum in late 1991. What makes the Rusyn identity claim particularly sensitive is the fact that Russia voices support for this, while the radical right and pro-Russian *Jobbik* party in neighbouring Hungary also called in March 2014 for the establishment of 'Rusyn-Hungarian' autonomy in Zakarpattya, seeing this as a step towards incorporation of the region into a Greater Hungary.[30] Although the Fidesz-led government in Budapest condemned such statements, Hungary's Prime Minister Viktor Orban's own call soon after for Hungarians in Ukraine to be granted dual citizenship and territorial autonomy was itself arguably less than helpful in terms of making the Kyiv government more amenable to accommodating Hungarian minority demands.[31]

IV. TERRITORIAL ADMINISTRATIVE REFORM AND ETHNO-CULTURAL DIVERSITY: THE ISSUES

How credible, then, is the suggestion – implicit in the current Concept on Territorial

Administrative Reform - that strengthening local self-government through the formation of capable territorial communities would in itself provide sufficient responsibilities and resources for proper execution of national-cultural autonomy? In the first instance, the answer to depends upon how the boundaries of the proposed new units are drawn and how provisions for local use of minority languages – currently still based on a 2012 law 'On principles of the state language policy' – are developed within the context of the ongoing reform process. Ukraine's current language law stipulates that in districts where national minorities constitute more than 10% of the population, the local authority has the right to grant the relevant minority language official status alongside Ukrainian. The adoption of this law, though officially justified by reference to the Council of Europe European Charter for Regional or Minority Languages (ECRML),[32] elicited controversy both in Ukraine and internationally, since it was widely viewed as an attempt by the then Yanukovich government to further entrench the already strong position of Russian in public life at the expense of Ukrainian, rather than being motived by any concern for what could more properly be considered 'minority' languages in Ukraine.[33] In spite of this, subsequent reporting under the ECRML suggests that –at least on paper - the law offers many potential benefits to smaller linguistic minorities, in so far as the 10% threshold rule can be applied right down to the level of individual town and village councils.[34] If due account is indeed to be taken of 'historic, natural, ethnic and cultural factors' when forming new enlarged 'capable territorial communities', attention clearly needs to be given to how the quite generous provisions of this law can best be maintained. In the case of minorities - such as the

Hungarians – with a marked territorial concentration, this should not be a major issue, though (as Figure 1 suggests) some outlying settlements would likely be affected in any amalgamation of existing territorial units.

A second issue to be worked through in any reform relates to ensuring equitable political representation for ethnic Hungarians at both the regional and the national levels. This question has long been a source of friction between Hungarian minority leaders and central government, especially with respect to Hungarian minority representation in the Ukrainian parliament (*Verkhovna Rada*). Under the terms of a law on parliamentary elections operational from 1997-2002, Hungarians benefited from the existence of a single electoral district centred on Berehovo, with boundaries covering all of the territories where ethnic Hungarians live compactly and thus corresponding more or less to those of the 'Prytysyanskyi *raion*' previously proposed during the 1990s (see Figure 2).[35] Subsequent developments, however, have significantly limited the possibilities for ethnic Hungarian representation. Firstly, legislative amendments adopted during 2001-2005 abolished provision for minority electoral districts. Despite appeals by Hungarian parties to the Central Electoral Commission of Ukraine to reinstate the provision ahead of the 2012 elections, ethnic Hungarians made up less than 50% of the population in all of the voting districts established in Zakarpattya in April 2012.[36]

Figure 2: Borders of electoral district 72 for the 1998 parliamentary elections in Ukraine

[From Karpatskyi Objective, 04/12/2013]
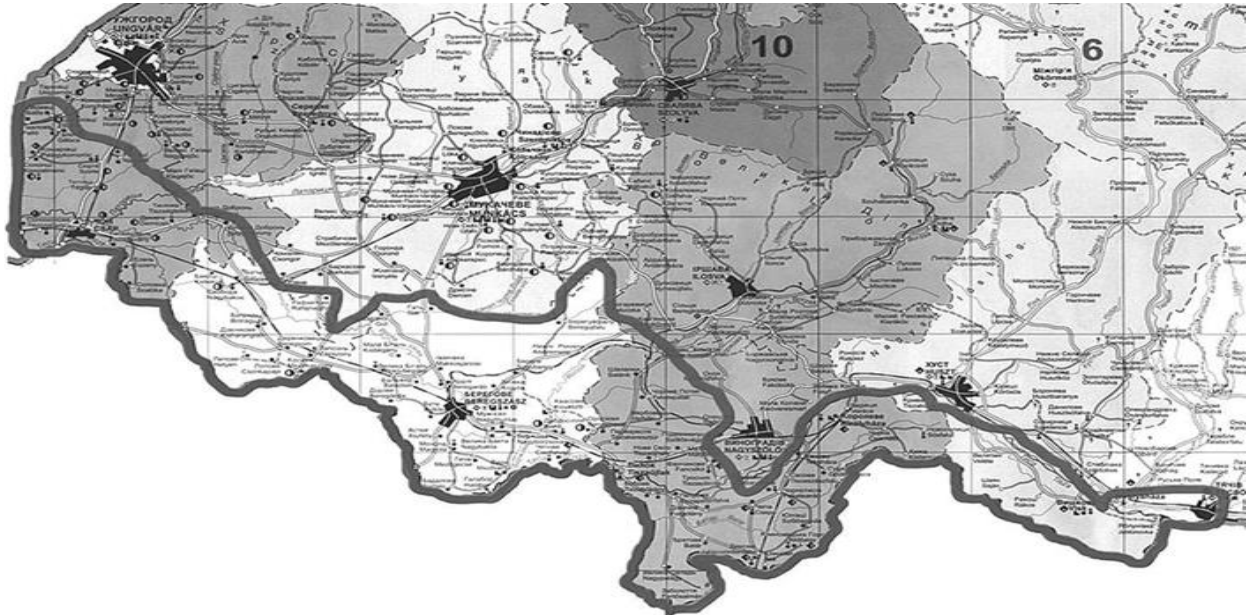
Secondly, changes to the electoral law in 2004-05 abolished the system of proportional representation and set a new threshold rule whereby candidates could only be elected if they were included in the list of a political party gaining more than 3% of the vote.[37] With the emergence of KMKSZ as a rival to UMDSZ at this time also contriving to split the ethnic Hungarian vote, the practice began of co-opting Hungarian leaders into the lists of all-Ukraine political parties. Members of both Hungarian parties were given places on such lists but were not elected, leading to a situation where Hungarians had no representation at all in parliament during 2006-2012. This changed in 2012, when UMDSZ leader István Gajdos was elected after the ruling Party of Regions offered him a relatively high place (74rd) on its list.[38] The new situation, however, meant that national minorities were now dependent on situational agreements with one or other (generally the ruling) national-level political party, and no longer had any legal safeguards for their representation. While a further amendment to the electoral law in November 2013 stated that the interests of national minorities should be taken into account when determining the boundaries of individual mandate constituencies, the borders of electoral districts have in practice remained unchanged.[39]

V. EUROMAIDAN AND BEYOND: A NEW CHAPTER

The Euromaidan Revolution of February 2014 seemed at first sight to herald a new chapter in relations between the Hungarian minority and the state. A part of his successful campaign for the presidential elections held in May 2014, Petro Poroshenko signed an agreement with KMKSZ leader Lazslo Brenzovics. Under this, Brenzovics

pledged his party's support for Poroshenko, in return for the latter's commitment to the following set of objectives geared to accommodation of the Hungarian national minority:[40]

1. to ensure the language rights of national minorities in accordance with the European Charter for regional or minority languages;
2. to secure national minority rights and interests at the level of territorial communities within the context of the administrative reform;
3. to contribute to the establishment (though local administration bodies) of separate units coordinating educational institutions of national minorities;
4. to contribute to the restitution of property which was illegally confiscated from religious communities during Soviet times;
5. to ensure representation of ethnic Hungarians in the parliament;
6. to rehabilitate Hungarians who were repressed during Soviet times.

If delivered upon, points 1, 2 and 5 of this agreement appear consistent with ensuring that existing provisions on local language use are maintained within the context of territorial-administrative reform, while also addressing the claims that Hungarian minority spokespersons have made in recent years regarding representation in parliament. Point 3 is interesting, in so far as it suggests the possibility of establishing additional institutions catering specifically for the educational needs of the Hungarian minority, should circumstances arise where these could not be met through reformed local authority structures. Such an arrangement would seem consistent with the broad definition of non-territorial autonomy set out by Tove Malloy, Alexander Osipov and Balasz Vizi in their 2015

volume *Managing Diversity Through Non-Territorial Autonomy*, which includes reference to service institutions for minorities run according to principles of self-management.[41]

A more detailed blueprint for how non-territorially based minority institutions might take shape was subsequently provided by Ukraine's Law 'On the cooperation of territorial communities', adopted in June 2014. Catering both for newly established capable territorial communities and those existing local authorities as yet still outside the new framework, the law defines cooperation as 'the relations between two or more territorial communities, regulated by agreement, and implemented through one of the forms defined by this law for the purpose of providing social-economic, cultural development of territories, improvement of quality of services for the population based on common interests and aims, effective execution of mandate of local self-governance bodies'.[42] Cooperation may take the form of delegation of tasks and resources for their implementation, realization of common projects, joint establishment and financing of communal institutions, and establishment of the joint bodies for the implementation of a mandate defined by the law. The state can support cooperation of territorial communities by providing subsidies, transferring objects from state to communal ownership, or through methodological, organizational and other support. At the same time, cooperation may be financed from local budgets, self-taxation and a state budget, international technical aid, credits, etc.[43]

This law therefore offers the possibility for new territorial communities in the Hungarian area of settlement to work together autonomously in order to establish their own institutions in the field of education management, including schools

catering specifically for the needs of the community as a national minority. Beyond the specific case of Hungarians in Zakarpattya referenced here, the possibility to establish coordinating minority institutions at local level might prove equally if not more useful in terms of addressing the needs of numerically smaller and more territorially dispersed minorities, which are less obviously catered for within the current process of decentralization.

At the time of writing, however, there are no examples of successful cooperation among territorial communities in this sphere, either in Zakarpattya or in the rest of the country.[44] This might be explained by a general lack of information about the law, coupled with a low level of professionalism of public officials on the local level on the one hand, and by limited state incentives to stimulate this process, on the other. For example, the education subsidy provided by the state could not be used for these purposes. Moreover, only those amalgamated territorial communities that were established under a Perspective Plan are entitled receive this subsidy.[45]

A further factor may be a more generalised uncertainty with regard to future development of minority rights provisions. Reform processes in the sphere of education, for instance, are still at an early stage, which means that there might yet be space to elaborate and implement alternative practices in those areas where national minorities reside compactly. Ukrainian policymakers have also declared their intention to come up with a clearer definition of national-cultural autonomy, which is listed as a right under point 6 of Ukraine's 1992 Law on National Minorities. Until now, this law has served as little more than a declaratory framework, and further thought should clearly be given on

how to develop its provisions within the overall context of Ukraine's current territorial administrative reform.

Ukraine's current geostrategic and political situation, however, means that minority rights issues (including reform of the language law) have either been accorded low priority or have been deemed too sensitive to address openly through public debate. For instance, Ukraine's former Government Commissioner for Ethnonational Policy National Minorities Gennadiy Druzenko – while declaring 'Unity in Diversity' as the overall guiding vision for the post-Euromaidan Ukrainian state – expressed skepticism towards the concept of national-cultural autonomy, which he seemed to equate with national-*territorial* autonomy.[46] Precedents from elsewhere demonstrate that non-territorial modalities of self-government or self-management can in fact be combined with (non-ethnically based) regional devolution and appropriate arrangements for political representation in a way that addresses the needs even of territorially compact national minority communities.[47] Indeed, a Hungarian autonomy concept along these lines (the so-called 'Gulácsi Draft') has previously been prepared by KMKSZ, while a further draft law based on the non-territorial principle was also submitted to parliament in 2005 by István Gajdos, president of UMDSZ, only to be rejected by the relevant parliamentary committee.[48] In an environment where national minority issues remain highly securitized, however, the very term 'autonomy' has become highly sensitive and problematic. In other words, to borrow a phrase used by Marguerite Marlin, it has become 'less significant for the character of constitutional reforms than it is as a political signifier'.[49]

Specific issues of cultural autonomy,

moreover, must be seen within the context of the other commitments made under the 2014 Brenzovics-Poroshenko agreement and whether these will be delivered upon in full. As already noted, there is still no clarity as to how existing provisions for local use of minority languages might develop. Furthermore, the formulation of the agreement was rather broad and did not specify, for example, how exactly Hungarian minority representation in the parliament would be ensured. Ahead of the 2014 parliamentary elections, KMKSZ again appealed (without success) for a revision of electoral boundaries in Zakarpattya that would also for the creation of a 'Hungarian district'. Ultimately, Lazslo Brenzovics was able to secure election to parliament after President Poroshenko offered him a place on the list of his own political party, in what amounted to a continuation of the state of affairs that had existed prior to the Euromaidan Revolution.[50] In the immediate term, though, Brenzovics' election to parliament - and membership of the *Verhovna Rada* subcommittee on Human Rights, National Minorities and International Relations - gives at least some voice to Hungarians in state-level decision-making processes. At the same time, it also increases the potential for bridge-building between Kyiv and Budapest, given that KMKSZ is affiliated with the Hungary's ruling *Fidesz* Party.[51]

The Hungarian minority fared somewhat better in terms of representation when it came to the local elections held in Zakarpattya in October-November 2015. A law adopted by the Ukrainian parliament in July 2015 contained a clause ensuring contiguity of electoral districts, while setting a 5% threshold for parties and 7% for blocs.[52] In each of the four districts established that cover the area where the Hungarian minority lives compactly, ethnic Hungarians constituted the majority of voters, thus ensuring the possibility of Hungarian representation within local self-government bodies. The provision on thresholds, meanwhile, stimulated cooperation between the two Hungarian political parties, which resulted in the largest number of Hungarian representatives to the regional council since 2002. At the same time, the adoption of new law highlighted the continued absence of legislative mechanisms securing minority representation at all levels, with KMKSZ and UMDSZ complaining that the Central Electoral Commission did not take sufficient account of the 'contiguity' provision with regard to some districts of the districts compactly populated by Hungarians.[53] Similar claims were made by the authorities in Hungary, where the Fidesz-led government has repeatedly expressed its concern over changes to electoral legislation while lobbying for the re-establishment of a 'Hungarian' electoral district. Predictably, the issue of the Hungarian minority has also been referred to by officials in Russia, as part of their regular pronouncements on the situation in Ukraine.[54]

VI. CONCLUSIONS

Although existing Ukrainian legislation contains mechanisms for preserving the country's ethnic diversity, its administrative–territorial division remains 'ethnically neutral'. Current processes of reform, driven by the pressing need to promote economic revitalization and effective and sustainable local government, do not explicitly link administrative, budgetary or territorial changes to the country's ethnic composition. The main focus of the reform is to strengthen united territorial communities (henceforth the country's

smallest administrative-territorial units) by providing them with more responsibilities and resources.

The reform process has again brought into focus questions related to the accommodation of ethno-cultural diversity, especially with regard to the Hungarian minority living compactly in western Zarkapattya. As the post-Euromaidan government has acknowledged through its declared policy of building 'unity in diversity', accommodating claims articulated in the name of minority communities is crucially important to the current project of consolidating Ukraine as a democratic political community. The revived claim for national-territorial autonomy presented by Hungarian activists in December 2015, however, appears problematic both practically and politically, and does not appear to be a feasible option at the present time.

Instead, this paper has proposed that a compromise position be sought between the 'ethnically neutral' state conception and the ethno-territorial paradigm advanced by Hungarian actors. In the first instance, this would entail ensuring that the boundaries of new capable territorial communities created in the region are drawn in a way that safeguards as far as possible existing provisions for use of the Hungarian language within the region. Closely linked to this is the question of representation: in order to ensure proper execution of the responsibilities envisaged by the reform, the Hungarian minority should be provided with legal safeguards of its representation in local, regional and national government bodies, through the drawing of stable contiguous boundaries of electoral districts reflecting the settlement patterns of ethnic Hungarians. Finally, this paper has highlighted some form of non-territorial autonomy as a

promising additional avenue that could be explored within the context of current discussions. Such an approach would speak meaningfully to the concept of national-cultural autonomy included in Ukraine's 1992 Law on National Minorities, and has also formed part of the platform advanced by Hungarian parties and organizations within Zakarpattya over the past 20 years. Furthermore (and as a basis for a separate, wider discussion), this paper has suggested that elements of NTA might be usefully applied to meet the requirements of numerically smaller and more territorially dispersed minority communities within Ukraine, the position of which is less obviously catered for within the current process of administrative-territorial reform.

The agreement struck in 2014 between Petro Poroshenko and KMKSZ seemingly set out a blueprint for accommodation of the Hungarian minority that is broadly consistent with the one sketched out here above. However, it is too early to say whether the objectives outlined in the agreement will be delivered upon in full. Whilst fully acknowledging the scale of the challenge inherent in trying to build such arrangements in the current securitised political context, Hungarian claims in Zakarpattya should not in themselves be seen as threatening further the territorial integrity of Ukraine. Rather, democratic accommodation of ethno-cultural diversity in the region could be seen as something likely to boost the longer-term consolidation of Ukrainian society. In this regard, one should not overlook the importance of continued constructive engagement in this area by the Council of Europe and OSCE as well as the European Union and its member states, notably (in this particular case) Hungary, where recent policy has often seemed more driven by instrumentalisation of Hungarian minorities

abroad for domestic political purposes than it has by a genuine interest in promoting a more durable accommodation between these minorities and their states of residence.

A further issue brought to light by this article is the extent to which questions of autonomy (and security) continue to be instrumentalised by Ukrainian elites as part of a competition for power at both regional and central level, as can be seen in the current struggle in Zakarpattya between Poroshenko and Baloha. This translates into efforts by the ruling Ukrainian parties to co-opt spokespersons for national minorities, who in turn seek to play off different sides against one other in an effort to maximize their own position and interests. Sustainable accommodation of diversity in the longer term therefore becomes a matter not just of desecuritization, but of further democratization.

In this respect, scholars and practitioners working in the area of ethnic diversity accommodation stress the importance of encouraging minority participation in decision-making via regular dialogue with and consultation of spokespersons for particular communities. In recent times, numerous commentators have called upon the Ukrainian government to set up roundtables or other consultative bodies that would provide an additional mechanism for minority spokespersons to voice concerns and perspectives alongside their participation in elected state bodies. Here the Mejlis / Qurultay of the Crimean Tatars might offer an instructive precedent, as a body elected according to NTA principles that has evolved into a recognised representative body of the Crimean Tatars. Recent discussions within Ukraine suggest that the Crimean Tatars – given their current circumstances – are still considered to be an exceptional case and the state is – perhaps understandably –wary at the present time of introducing a general law providing for elected NTA bodies, of the kind adopted by Serbia, Hungary and other states in the region. Be that as it may, the introduction of a consultative body giving voice to minority NGOs could be seen as a positive step in terms of building trust between different communities and strengthening Ukraine's 'unity in diversity'.

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Notes

[1] Working Paper for the ESRC IAA project 'Building Unity in Diversity in Ukraine: The Potential for Non-Territorial Cultural Autonomy as an Institutional Framework'. The work for this paper was supported by an Economic and Social Research Council Impact Acceleration Account award [Grant Number ES/M500471/1].

[2] Salnykova 2014: 90.

[3] In this regard, see: Galbreath & McEvoy 2012; Mylonas 2012; Dembinska et al 2014.

[4] Marlin 2016: 289-290.

[5] Authors commonly distinguish between 'security' and 'normative' approaches when discussing states' strategies for the political management of ethnic diversity. The former seeks to control non-dominant groups with the instrumental aim of securing the territorial integrity of the state, while the latter (based in liberal democratic theory) seeks to accommodate these groups because their cultures are assigned intrinsic value and are seen as enriching the life of the state. The two approaches have, however, been seen as interdependent – i.e. devolution in good faith is seen as the best way of building mutual trust and strengthening the security and integrity of the state (see Malloy (2015: 6), citing Weller &Wolff 2005: 13; also Smith & Hiden 2012, Gross 2014). The latter view was advanced in July 2015 by Deputy of the Ukrainian Verhovna Rada (Parliament) Laszlo Brenzovics (discussed later in this paper), who observed 'historical experience shows that repressing linguistic, cultural, representative and other rights and opportunities for minorities can become a destabilizing factor. Conversely, improving the health of groups of people dramatically reduces centrifugal aspirations […] It is necessary to prudently use European techniques on the rights of national minorities that have already given good results for decades'. Cited in Marlin 2016: 283.

[6] Citation from brochure for 'Conference On Non-Territorial National-Cultural Self-Government: Ukrainian Perspective, Organised by the European Centre for Minority Issues within the framework of the Eastern Partnership Programme: National Minorities and Ethno-Cultural Issues. Belarus-Moldova-Ukraine. Co-Organizers: Kuras Institute of Political and Ethnic Studies of the National Academy of Sciences of Ukraine; School of Social and Political Sciences, University of Glasgow. 2-3 June 2016, Kuras Institute, Kyiv, Ukraine'. See: Events Announcements: The conference "Non-Territorial National-Cultural Self-Government: Ukrainian Perspective" http://www.ipiend.gov.ua/?mid=17&action=events_detail&event_id=20 (accessed 19 September 2016).

[7] On this tension, see Dembinska et al (2014: 356). The term 'community of persons' derives from the concept of non-territorial autonomy first propounded by the socialist politicians Karl Renner and Otto Bauer in early 20th-century Austria. According to this principle, citizens have the right to freely determine their ethnicity and enrol on a separate state-wide national register of electors used to elect bodies of cultural self-government with a remit extending to the state territory as a whole. The right to cultural autonomy can thereby be exercised by individuals irrespective of where they reside within the given state. Variants of this approach have been implemented in a range of contexts over the past 100 years, including inter-war Estonia and and present-day Hungary and Serbia. See: Bauer 2000, Coakley 1994, Smith & Cordell 2008, Smith 2013, Coakley 2016, Smith 2016.

[8] Marlin 2016.

[9] See Malloy's introduction and the range of case studies discussed in Malloy, Osipov and Vizi 2015.

[10] These arrangements are currently being investigated at the University of Glasgow as part of the Economic and Social Research Council grant 'National Minority Rights and Democratic Political Community: Practices of Non-Territorial Cultural Autonomy in Contemporary Central and Eastern Europe' [2014-17; grant number ES/L007126/1].

[11] Hitherto, Ukraine was divided into 24 oblasts (regions), the autonomous republic of Crimea and two 'cities with special status' – Kyiv and Sevastopol

[12] The two exceptions are Zakarpattya, where the Regional Council has delayed approval of the plan, and Crimea, where Russian occupation has ruled out any implementation of the decentralization reform.

[13] The nature of the process means that even one village may block a decision of a majority of villages/towns willing to unite.

[14] According to Yuriy Hanuschak, one of the initiators of this draft law, the capable united community, envisaged in the Plan, will be counted as created only if a majority of village/town councils decide to unite. This will enable the process of allocation of funds to the united community. Those which decided to abstain will have to join the capable community using a by-election process. Hanyschak, Y., 'The draft law preventing formation of territorial communities, which do not correspond with the Perspective Plan, is being prepared', http://decentralization.gov.ua/news/item/id/1338, 11 January 2016. According to the changes proposed by draft law #3390, regional councils are excluded from the process of Perspective plans' adoption if within one month after

submission of the Plan they do not review it. Parliament of Ukraine, Draft Law of Ukraine 'On amending the law of Ukraine 'On Voluntary Unification of territorial communities': http://www.rada.gov.ua/news/Novyny/124354.html, 2 February 2016. This law has yet to pass its second reading in the parliament. If adopted, these draft laws will strengthen the role of the Cabinet of Ministers and the Profile Ministry in determining the pace of decentralization reform.

[15] Parliament of Ukraine, Law of Ukraine 'On the Voluntary Unification of territorial communities': http://zakon3.rada.gov.ua/laws/show/157-19, 5 February 2015. This approach is consistent with pre-existing legislation in Ukraine, which delegates the majority of responsibilities in this area to local self-government bodies - for example, decisions as to whether particular regional or national minority languages are taught in schools or can be used in communication with local authorities. See: Parliament of Ukraine, Law of Ukraine 'On the National Minorities in Ukraine' http://zakon5.rada.gov.ua/laws/show/2494-12, 25 June 1992; Parliament of Ukraine, Law of Ukraine 'On the basics of Ukraine's state language policy' http://zakon5.rada.gov.ua/laws/show/5029-17, 3 July 2012.

[16] The Government defines a capable community as one that is able to 'provide (directly or through local self-government bodies) a proper level of services in the sphere of education, culture, healthcare, social security and communal property taking into account its cadre and financial resources and infrastructure development of subsequent administrative-territorial unit'. Cabinet of Ministers, 'On adoption of the Methodology of capable territorial communities' formation': http://zakon2.rada.gov.ua/laws/show/214-2015-%D0%BF, 5 April 2015.

[17] Reference from State Statistical Committee of Ukraine.

[18] http://stat.testportal.com.ua/

[19] Prior to 2005, KMKSZ existed as an NGO.

[20] On September 5, the head of KMKSZ László Brenzovics and the head of UMDSZ László Zybanych signed the agreement, which envisaged 'a constructive cooperation in the interest of the Hungarian community in Zakarpattya'. The political parties decided to establish a coordination committee to align their activities before and during elections. http://zaxid.net/news/showNews.do?dlya_uchasti_u_mistsevih_viborah_na_zakarpatti_obyednalisya_dvi_ugorski_partiyi&objectId=1364493, 6 September 2015.

[21] Kruhlashov, 2014:78.

[22] Ibid.

[23] http://mukachevo.today/news/suspilstvo/na_zakarpatti_hochut_stvoriti_okremij_ugorskij_rajon_114_poselen_-_za, 13 December 2015. Berehovo was named as the centre of the district.

[24] Regional Offices of Reforms were established in 24 regions in order to facilitate the decentralization process in the country. They were supported by the USAID programme, and were not registered as legal entities. In 2016, the Ministry of Regional Development announced the establishment of new institutions which would have a wider mandate and would be registered *de jure* and work in the same field. The coordinators for these institutions have already been selected.

[25] Zakarpattya Regional State Administration, http://www.carpathia.gov.ua/ua/publication/content/12752.htm, 15 December 2015.

[26] Beregovo Today, http://beregovo.today/NewsOpen/id_news_251226, 21 December 2015.

[27] The PPB is the bloc of the current President of Ukraine, who appointed Moskal as Governor in July 2015. PPB won the largest number of seats in the October 2014 elections to the Ukrainian parliament and forms part of the ruling coalition government. In the Zakarpattya regional elections, however, it gained only 15 seats out of 64. Even after reaching an agreement with the two Hungarian parties KMKSZ+UDMKZ, however, Moskal cannot command a stable majority within the regional council, and is forced to rely on situational arrangements with other factions. Still highly influential in the region is the former Governor, local oligarch and politician Viktor Baloha, whose party 'United Centre' has its stronghold in Zakarpattya and 19 seats in the regional council. Baloha is currently at odds with the Presidential Party, having opposed Moskal's nomination, and is keen to ensure that any process of reform does not affect his business interests and influence within the region. This conflict disrupts the work of the regional council and partly accounts for its failure to approve the 'perspective plan' on administrative-territorial reform prepared by the regional administration.

[28] Dembinska et al 2014

[29] In this regard, Francesco Palermo (2015) distinguishes between giving autonomy to a region (and its inhabitants), and giving territorial autonomy (with implicit 'ownership' rights) to an ethnic group.

[30] Beregszasz News, 2014. Beregszasz News, 2014: http://beregszasz.com.ua/index.php/politika-br-polityka/7812-yobbik-i-dali-aktyvno-vystupaie-za-pryiednannia-zakarpattia-do-uhorshchyny.

[31] News.Liga.Net, http://news.liga.net/news/politics/1720632-premer_vengrii_potreboval_avtonomii_dlya_vengrov_zakarpatya_.htm, 13 May 2014. This article mentions the official Budapest position towards Hungarians living in Zakarpattya: autonomy, dual citizenship and national minority rights.

[32] This was signed by Ukraine in 1992, ratified in 2003, and entered into force in 2006.

[33] Moser 2014

[34] Council of Europe, European Charter for Regional or Minority Languages, Third periodical report presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter: Ukraine, 12 January 2016. http://www.coe.int/t/dg4/education/minlang/report/PeriodicalReports/UkrainePR3_en.pdf.

[35] Article 7.2 of the 1997 Law on Elections stated that 'localities, where national minority lives compactly, shall not exceed borders of one electoral district. In those cases, when a number of electors belonging to the national minority exceeds the number of electors necessary for formation of electoral district, districts are formed in a way that at least in one of them electors representing national minority constitute the majority of electors in the district'. Parliament of Ukraine, Law of Ukraine 'On elections of People's Deputies of Ukraine': http://zakon3.rada.gov.ua/laws/show/541/97-%D0%B2%D1%80, 24 September 1997.

[36] Central Electoral Commission of Ukraine, http://www.cvk.gov.ua/pls/vnd2012/WP023?PT001F01=900&PID100=21; Kruhlashov, 2014: 83.

[37] Parliament of Ukraine, Law of Ukraine 'On elections of People's Deputies of Ukraine', http://zakon3.rada.gov.ua/laws/show/2766-14, 18 October 2001; Parliament of Ukraine, Law of Ukraine 'On elections of People's Deputies of Ukraine', http://zakon3.rada.gov.ua/laws/show/1665-15, 25 March 2004; Parliament of Ukraine, Law of Ukraine 'On amending the law of Ukraine 'On elections of People's Deputies of Ukraine', http://zakon5.rada.gov.ua/laws/show/2777-15, 7 July 2005.

[38] The same was true of the leader of the Romanian minority in Chernivtsi region Ivan Popesku, who was ranked 73rd.

[39] Parliament of Ukraine, Law of Ukraine 'On amending certain legislative acts aimed at improvement of electoral legislation', http://zakon5.rada.gov.ua/laws/show/709-18/paran33#n33, 23 November 2013.

[40] Karpatskyi Objective, http://karpatskijobjektiv.com/petro-poroshenko-pobuvav-na-zakarpatt/, 5 May 2014.

[41] Ibid.

[42] Parliament of Ukraine, Law of Ukraine 'On the cooperation of territorial communities', http://zakon3.rada.gov.ua/laws/show/1508-18#n23, 17 June 2014.

[43] Ibid. The latter provision appears to open up the possibility of receiving external financial support for Hungarian minority development from neighbouring Hungary.

[44] Ministry of Regional Development of Ukraine, 'The registry of cooperation among territorial communities': http://www.minregion.gov.ua/wp-content/uploads/2016/03/Reestr-01.08.16.pdf, 1 August 2016.

[45] Parliament of Ukraine, Law of Ukraine 'On amending the Budget Code of Ukraine concerning the reform of interbudgetary relations', http://zakon3.rada.gov.ua/laws/show/79-19/page3, 28 December 2014.

[46] http://www.bbc.com/ukrainian/ukraine_in_russian/2014/12/141230_ru_s_druzenko_interview. Druzenko was in post during 2014-15, but has since been dismissed and his post abolished, suggesting that this is not a current priority area for the Ukrainian government.

[47] A good example would be Serbia, where, in a setting that bears many structural similarities with Zakarpattya, a 200,000-strong Hungarian minority lives compactly in the northern province of Vojvodina, in areas adjacent to the border with Hungary. No territorially-based 'national district' has been established for local Hungarians, who instead practice a form of non-territorial autonomy within the framework of autonomy for the multi-ethnic province of Vojvodina as a whole (Korhecz 2014 & 2015, Beretka 2015). There are, however, clear differences between the Serbian and Ukrainian cases, most notably with regard to the political and geostrategic situation: as already noted, any suggestion of autonomous status for Zakarpattya is unacceptable to central government at the present time, carrying as it does uncomfortable echoes of the secessionist 'People's Republics' proclaimed in eastern Ukraine during 2014. The Serbian arrangements also reflect pre-existing federal legacies carried over from Yugoslavia, while the degree of national-cultural autonomy granted to Hungarians is more substantial than what is currently proposed in Ukraine: in Serbia, Hungarian cultural institutions are overseen by a Hungarian National Council that is elected according to the principle of personal autonomy and which (at least until 2013) had extensive consultation rights and could engage in co-decision-making with territorially-based local authorities in Vojvodina.

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[48] Ferenc & Tóth 2014: 170-72.

[49] Marlin 2016: 295.

[50] Mukachevo.net, 14 September 2014.

[51] Assuming that KMKSZ is able to deliver support for Fidesz amongst the Hungarian minority (and the sizeable number of Hungarians who hold passports and can vote in Hungary's parliamentary elections), one can assume that its main interests will be satisfied, at which demands for Hungarian territorial autonomy might be moderated accordingly.

[52] Parliament of Ukraine, Law of Ukraine 'On local elections', http://zakon4.rada.gov.ua/laws/show/595-19/page9, 14 July 2015.

[53] Beregszasz.com.ua, http://beregszasz.com.ua/index.php/politika-br-polityka/9180-uhorski-orhanizatsii-vyslovyly-nevdovolennia-narizkoiu-okruhiv-na-zakarpatti, 12 September 2015.

[54] For example, ahead of the local elections in 2015, Hungarian State Secretary János Potápi expressed 'regret' that the borders of electoral districts in Zakarpattya had again been changed. Mukachevo.net, 25 September 2015. In his annual press conference held in January 2016, Russian Foreign Minister Sergei Lavrov alleged that Ukraine oppresses the rights of ethnic Hungarians, as 'due to alteration of electoral districts, ethnic Hungarians did not get their representative in the parliament'. http://glavcom.ua/news/357534.html, 27 January 2016.

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