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THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES AS A PEACE INSTRUMENT

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Introduction

This paper discusses the background of the European Charter for Regional and Minority languages (ECRML) and focuses on the main goal of the Charter, its plea for linguistic diversity. As will be shown, the Charter is a response to the ethnolinguistic assumption of a special and intrinsic relation between language and nation: the one language-one nation ideology. In the second part of this study, Ukrainian language policy will be discussed in the light of the Charter. Special attention will be given to the question whether a national language may have priority over minority or regional languages.

Ukraine and the Charter

Ukraine became a member of the Council of Europe on 9 November 1995. Each new member of the Council of Europe, the Strasbourg based European organization which aim is to uphold human rights, democracy and the rule of the law in its member states, is urgently invited to join the existing treaties of the Council. The Charter, which is adopted in 1992, is such a treaty. Its aim is to protect and promote historical regional and minority languages in Europe. The treaty excludes dialects of the national or majority language(s) and the languages spoken by recent immigrants. The Charter does not define the terms minority, regional, recent or dialect. It is up to national authorities to identify the minority or regional languages of their country and to take measures to protect, support and promote these languages.

The Charter offers a broad spectrum of possible measures from which national authorities may select the ones, which suit the interest of the minority or regional languages in their country most. The Charter offers two levels of recognition of minority or regional languages, recognition tout court without special programs to support and promote these languages and recognition with support and promotion of the languages recognized as minority, regional or even transnational languages. Transnational languages are for instance Yiddish and the languages of the Roma minorities. The Charter includes a monitory circle in which an international Committee of Experts – one expert from each signatory country – plays a leading role.

Ukraine signed the Charter in 1996, however, it took Ukraine several years to ratify the Charter. Finally, the Charter went into force in Ukraine on 1 January 2007. Such a long period between signing and ratification is unusual and demonstrates how politicized language issues are in Ukraine. This problematic situation is a consequence of the language policy Ukraine experienced during the periods in which the country lost its independence. 'At least 60 prohibitions of Ukrainian had been enacted during the 337 years that Ukraine was under foreign rule, most by the Russian empire, with the goal of assimilating Ukrainians and destroying their sense of national identity, thus preventing independence tendencies' (Shandra 2019). In these years the Ukrainian language was pushed back from the public domain as much as possible. Even the term linguicide has been used to describe this process (Euromaidan 2017). Russian, or

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Polish, was promoted. Consequently, Russian began to take an increasingly important place, such that a not insignificant group of Ukrainians took over Russian and gradually started to regard it as their first or only language. Add to this the immigration of Russian-speaking people from the former Soviet Union to the industrial areas of Ukraine and it will be clear that when Ukraine re-acquired independence in 1991, there was a substantial group, which considered itself as Russophone. When the new state wanted to promote the Ukrainian language as a binder for state-building, a problem arose, similar to that which the governments of the Baltic States faced. Just as Ukraine, these new states want to re-introduce their own national language as a means of nation building[1], whereas the Charter claims rights for minority languages, even when that language is seen as a symbol of the former oppressors. In Ukraine, the discussion about the status of Russian next to Ukrainian made it difficult to ratify the Charter soon after Ukraine signed it. As will be shown, this heavy politized discussion continues. The Charter plays an eminent role in this debate.

Early steps towards a national language

The emphasis of the Charter on diversity is not a coincidence. The ethnolinguistic assumption that one language and one nation go hand in hand, or at least should go hand in hand, caused so many problems and led to such a violent linguistic conflicts in different parts of Western Europe in the third quarter of the 20th century that the attention of the Parliamentary Assembly of the Council of Europe and of the European Parliament was drawn to these linguistic conflicts. Decades of debates followed about the possible rights of minorities and especially about their linguistic rights.[2] Finally, the Council of Europe found a common position and decided to draft an internationally binding treaty to put an end to the linguistic conflicts in Western Europe.

In order to understand well how these linguistic conflicts became so intense and violent it may be useful to find out how the idea of one language and one nation could become so prominent and how this ideology consequently led to the suppression of minority languages. For a good understanding, it is necessary to distinguish between two mutually reinforcing positions: the French and the German.

For centuries, the status of languages was not a serious issue in Europe. Europe used to be an unstable patchwork of kingdoms, principalities, bishoprics, early republics, duchies, counties, small states, and towns, all with their own authority structure, power, culture and language or dialect. There was still no question of overarching national languages nor of central governments. Up to the Renaissance Latin was the language in which official correspondence took place, in which scholars communicated, and in which god was glorified. However, from the 14th century different vernaculars claimed their place.

According to Anderson (1991: 37-46) it was the invention of the printing press and the subsequent print capitalism which changed society and introduced the concept of the national language of an imagined community and subsequently the (dynastic) nation. Printed books require a more or less standardized language and since printed books were aimed at a greater circulation than manuscripts and were also meant to achieve a bourgeois audience, the language could not be Latin any longer. The dialects that were used in writing until then started to be organized into broad fields of communication and exchange and in a way became ‘national’ languages.

[1] About the role of a nation language as a means of nation building, see Gellner (1994)
[2] For an overview of the resolutions, recommendations, parliamentary questions and plans of these two European forums, see Hamans (2006, 247-249)

In several parts of Europe, the end of Middle Ages and the upcoming Renaissance is marked by the first signs of a growing national consciousness and thus of a national language. In Italy the 'questione della lingua', the problem which regional variant of Italian to choose, kept scholars and writers busy, till 1525, when Pietro Bembo managed to settle the issue in favour of archaic Tuscan. The founding of the Academia della Crusca in 1582/1583, which aimed at publishing an Italian dictionary based on this variety set the standard for the later national language (Perceval 1995: 150, Richardson 1995: 155). Burke (2004: 65) claims that the printing of Dante's treatise on the eloquence of the vernacular in 1529 set off a chain reaction in Europe, beginning in the 1540s. From then onwards till the middle of the 17th century every few years a new book was published which advocated the special qualities of another language: Italian, Spanish, French, Dutch, Polish, English, and German.

In France King Francis I issued the *Ordonnance de Villers-Cotterêts* in 1539, by which he called for the use of French instead of Latin in all legal acts. Within a few decades, a number of French grammars and dictionaries were compiled and published. The names of the 16th century printers and scholars, father and son, Robert and Henri Estienne became household names in French grammatical studies (Kibbee 1995:161-166). In Germany the Bible translation by Martin Luther, published between 1522-1534 eloquently advocated the right of the German vernacular. In England the *Book of Common Prayer* 1549 did the same for English (Kelly 1995: 423). In the Netherlands the publication of the *Twespraeck van de Nederduitsche letterkunst of vant Spellen en de Eygenschap der Nederduitschen Taals* 'Dialogue about the Grammar of Dutch or about the orthography and the qualities of the Dutch Language' by a literary society in 1584 had a similar effect (Van der Wal & Van Bree 1992: 186-188).

However, all these discussions were restricted to the few literate members of the society. Neither the standardized chancery dialect of France nor the supra-regional German of Luther could be prescribed. The 'educated' vernacular remained the language of a small elite. In addition, the debate was about the status of the 'national' vernacular compared to Latin and about which norms and standards were to be established for the different vernaculars, not about the priority of a national language above its dialects or about the assumed unifying power of a national language.

> From the middle of the eighteenth century onwards, the links between language and nation become increasingly close and we find more and more examples of the idea that 'one language' should join the traditional trinity of 'one king, one faith, one law' (*un roi, une foi, une loi*). In 1768, King Carlos III of Spain decreed that there should be one language and one currency in his kingdom (Burke 2004: 164).

A heated debate about these issues started around the turn of the 18th and 19th century.

German language and nation

The debate about the intrinsic relation of language and nation is often seen as an exclusive German debate. However, as the names of Locke and Condillac in the following quotation show, the idea that there is a direct relation between language and nation is not a specific German phenomenon nor is it a 19th century invention. Schaefer (2010:2) even refers to Isidore of Seville (560-636) who argued that 'nations come from languages, not languages from nations'.

> In fact, from the times of John Locke (1632-1704), Étienne Bonnot de Condillac (1714-1780), Johann David Michaelis (1717-1791) and, perhaps more famously, Johann Gottfried Herder (1744-1803) and Wilhelm von Humboldt (1767-1835) onward, the intrinsic relationship between language and nation has formed a stable element of both metalinguistic and nationalist discourse. The key cultural position of language

during the rise of cultural nationalism and the formation of modern European nation-states led to intensified interest in the study of the 'national' language and literature (…) (Rutten and Van Kalmthout 2018: 10-11).

Although the ethnolinguistic assumption cannot be called specifically German, the debate peaked in a divided Germany of the late 18th and 19th century. That is why the ethnolinguistic ssumption quite often is seen as German.

In Germany, which was still not a nation state till the unification of 1871, but a scattered country, a cultural gathering of principalities, small states, towns, and regions bound together by a common language,[3] the philosopher Johann Gottfried Herder (1744-1803) claimed that there was a special one-to-one relation between nation and language. Herder, who is seen as the father of romantic nationalism, introduced the term *Volksgeist* 'national spirit' and in this spirit language played an essential role.

Herder was one of the first theorists who stressed the importance of nationhood. By nation, he meant a national state with one people, that shared the same *Volksgeist* and thus had one and the same culture (Patten 2010). Language and cultural traditions were essential for the formation of a nation.

[I]n a passage written in the 1760s Herder treated language as the quintessential characteristic of nationhood, saying that 'truth, beauty, and virtue – became as national as language was' […]. In the *Ideas* he wrote that every people has its language […], and added that nations have been separated from one another by language […]. And in a 1795 text appended to the *Letters on the Advancement of Humanity*, he declared that 'whoever was raised in the same language, who poured his heart into it, and learned to express his soul in it, he belongs to the nation (Volk) of this language (Patten 2010: 667).

In his *Abhandlung über den Ursprung der Sprache* 'Treatise on the Origin of Language' (1772), an essay about the first human language, he claimed that the different languages are necessary to keep together the different tribes in which groups of human beings lived.[4] A one-to-one relation between language (Sprache) and people (Volk) is an immediate consequence of this view. Therefore, Germany with its unique German *Volksgeist* based on a shared tradition and a common language, could and should become united.

The desired goal of unification rests upon discursive unity, provided by the authority of tradition and a unified adherence to the national spirit. And here too, linguistic homogeneity is a necessary condition: "One people, one fatherland, one language" [...]. In Herder's vision, a viable polity can only be founded on a national language resistant to the penetration of foreign tongues (Bauman & Briggs 2003: 193).

The intrinsic relation between language and nation became commonplace in German thinking at the time. Wilhelm von Humboldt (1767-1835) has strongly articulated this idea in an often quoted statement from 1797 that has almost achieved proverbial status: "Language is the spiritual exhalation of the nation".[5] He even claimed that 'the concept of a nation must be based chiefly upon language' (Schaefer 2010: 5). A few years after Herder passed away, the philosopher Johann Gottlieb Fichte (1762-1814), one of the main figures in German idealism and one of the founders of (German) political nationalism, presented a series of lectures in Berlin: *Reden*

[3] "Germany did not exist as a state, a united nation, it existed only as a political desire – and as a linguistic community, a *Sprachnation*." Gauger (2010: 117)

[4] According to Herder (1772) the second natural law says that "*The human being is in his destiny a creature of the herd, of society. Hence the progressive formation of a language becomes natural, essential, necessary for him.*" Therefore, language really becomes the tribal core (*Stamm*). The third law explains why there are so many different tribes and languages: "*Just as the whole human species could not possibly remain a single herd, likewise it could not retain a single language either. So there arises a formation of different national languages.*" (Forster 2002, also available via https://www.marxists.org/archive/herder/1772/origins-language.htm)

[5] Quoted from Edwards (2009: 205)

an die Deutsche Nation 'Addresses to the German Nation' (1807/1808). In these lectures, which he delivered in a French-occupied Berlin, he made an appeal to the German nation to unite. Germans shared a common language and consequently they should use their language and the patriotism which was connected with the use of the same language to unite the country, they should form one nation. Subsequently he wanted this new Germany to use its special virtues to bring to the world the fruits of Enlightenment, which in his opinion were spoiled by the French.

Friedrich Schlegel (1772-1829), not only a pioneer in comparative and Indo-European linguistics but at the same time a romantic soul and philosopher, declared that 'a nation which allows herself to be deprived of her language (…) ceases to exist' (Burke 2004: 164). "The case of the national language," he wrote in 1815, "I consider as at all times a sacred trust and a most important privilege of the higher orders of society (Schlegel 1818, II,57). When Jacob Grimm (1785-1863) had to open the first Germanist gathering in 1846 he took the same position[6].

> Let me start with the simple question: what is a people? And respond with just as simple an answer: A people is the epitome of people who speak the same language. For us Germans this is the most innocent and at the same time proudest declaration (Grimm 1847: 11).

A few words later Grimm calls it a natural law that not rivers or mountains define boundaries between peoples, but language.

The emphasis of Herder, Fichte, Schlegel, Grimm and their followers on the relation between nation-state and language made it almost impossible to have an eye for diversity. It was the national language that was celebrated, not regional variants, dialects, or deviant minority languages. The underlying assumption was and quite often still is that the world is divided into homogeneous ethnic communities, nations, all with their own homogeneous languages (cf. Blommaert and Verschueren 1992).

The French revolutionary debate

The status and the value of the national language were not only at issue in Germany; a bitter debate about language and dialect was prevalent in Revolutionary France. The French Revolution proclaimed the equality of all citizens. Therefore, they all should be able to use the same language to exercise their civil rights and to check those in power. However, only a small portion of the citizens of France appeared to be able to speak and understand French.

4 June 1794 Abbé Grégoire presented a report to the National French Convention, the parliament. This report, *Rapport sur la Nécessité et les Moyens d'anéantir les Patois et d'universaliser l'Usage de la Langue française*, 'Report on the necessity and means to annihilate the regional languages and to universalize the use of the French language', claimed that only 20% of the French people was able to speak and understand the language as it was spoken in Paris and in the Convention, which prevented the other 80 percent from exercising their rights, but even more so from formulating their thoughts. The *patois*, a term for regional languages as well as for dialects, were seen as backward, as belonging to the days of tyrannical monarchs, whereas the national language French was the language of freedom. Grégoire believed that the Revolution could only succeed when all the French people would speak this language of freedom. At the same time, he was sure that the Revolution would bring the national language to all villages and homes because all soldiers who returned to their fireplaces would take the national language home. Therefore, he believed that in the end France would be united by a unified language and that in this

[6] Grimm was not the accidental speaker on duty at this occasion; he was, as Shippey (2010: 98) shows 'the symbolic center of *Deutschland*'.

way the people would be elevated. His solution was not teaching all the French citizens French next to their home language, but instead of. The dialects and other languages should be erased.

> [W]ith thirty different patois, we are still, for language, at the tower of Babel, while, for freedom, we form the vanguard of the nations. [...] But at least we can standardize the language of a great nation, so that all the citizens who compose it can without hindrance communicate their thoughts. This enterprise, which was not yet fully executed by any people, is worthy of the French people, who centralize all the branches of social organization and who must be jealous of rather devoting themselves, in a single and indivisible Republic, to the unique and invariable usage of the language of freedom. […]
>
> I believe I have established that the unity of the idiom is an integral part of the revolution […]. It is time for the deceitful style, for the servile formulas to disappear, and for the language everywhere to have the character of veracity and laconic pride which is the prerogative of the republicans (Grégoire 1794).

While German was seen as a means of nation-building in Germany, French was considered as a means of democratization but even more as a means to uplift people, to get the people out of their backlog. Or as La Gazette du Midi (1833) wrote: “The ‘patois’ is superstition and separatism; the French must speak the language of freedom” (Adomié 2013: 24). Consequently, the status of *patois* was very low. Dialects, regional variants, and minority languages were considered inferior and should be eradicated. In 1845, a sub-prefect in the department of Finistère, the most western part of Brittany, reminded a group of teachers that ‘above all, gentlemen, remember that you have been posted here exclusively to kill the Breton language’ (Lesbesque 1970, quoted from Jacob and Gordon 1985: 115). This ideological stance remained the linguistic and educational program for France for the following 150 years.

In the 1880’s Jules Ferry, minister of education, reformed the French school system. He founded *l’École de la République* ‘the School of the Republic’, the public school. This type of school aimed at achieving equality among the French citizens. Therefore, a uniform school system was needed in which only one language could get a place, and this was of course the official and national language (Van der Elst & Van Rootselaar 2004). *Patois* should be banned from school. An inspection report from 1893 called *patois* the worst enemy of education in primary schools (Adomié 2013 :24). No wonder that in the French schools signs appeared on which one could read ‘no spitting or speaking patois (Occitan or Breton etc.)’[7]. School rules prohibited speaking patois, even during leisure time[8]. In his 1998 parliamentary report about regional languages and cultures, Bernard Poignant confirmed that it was still the practice in school to punish children for speaking *patois*.

Since the French culture was the most prestigious culture in the 19th and early 20th century in most parts of Europe, this French ideological position was followed widely. Dialects, regional, and minority languages were considered retarded and did not need any protection. To the contrary their use should be contested, at least at school. At some secondary schools in the southern provinces of the Netherlands, for instance, it was forbidden to speak the local dialect till the 1930’s (Hamans 2015: 60). Except for the use of Frisian, it took until 1975 before the first non-standard language, the dialect of the city Kerkrade, got a formal role at a Dutch school (Hagen, Stijnen & Vallen 1975).

[7] Il est défendu de parler breton/occitan/patois et de cracher à terre. See for instance: https://lachouetteaveuglesite.wordpress.com/2016/05/25/il-est-defendu-de-parler-breton-et-de-cracher-a-terre/, retrieved 7.8.2017.

[8] See for instance : *Extrait du Guide des Ecoles primaires* (1835, article 22), retrieved 6.2.2018, from https://books.google.nl/books?id=y0hq1q0J2kcC&pg=PA8&lpg=PA8&dq=il+est+defendu+de+parler+patois+pendant&source=bl&ots=zcPPAnTll0&sig=wgvYtqfbhLBhVcewdx-SLk7EBDQ&hl=nl&sa=X&ved=0ahUKEwjavJjLjM7ZAhVIW8AKHXr6DUkQ6AEIKDAA#v=onepage&q&f=false

This attitude towards dialects was not confined to cultures that highly looked up to French civilization.

> Native American children had to wash their mouths with soap when they were heard speaking their native language; similar forms of punishment were administered to Aboriginals in Australia and Africans in the colonial empires. The Finnish Sámi people had Finnish as their official medium of instruction until 1995 (…) (Blommaert, Leppänen and Spotti 2012: 4).

The French and the German tradition merged in the course of the 19th and 20th century: language was seen an intrinsic feature of a nation and since nations were seen as homogeneous, or at least the ideal was that a nation should become homogeneous, there was only place for a, or better, the 'national' language. The national language should only consist of a uniform 'Kultursprache' with standards and norms and without variation. This implies that there was no place for linguistic diversity, for regional or minority languages and even not for dialects of the national language.

However, reality did not conform to this utopian image. Speakers kept speaking their non-national mother tongue and so linguistic conflicts arose.

Linguistic conflicts

This is not the place to give an overview of all or even the most important recent linguistic conflicts in Western Europe, only a few brief remarks will be made about the most striking violent 'linguistic wars' of the second half of the 20th century[9].

In almost all Western-European countries there were minorities that spoke another language than the standard language. In Germany for instance, Danish, Sorbian and Frisian were spoken, in the Netherlands Frisian, in the UK Welsh, Gaelic, Cornish, Irish, Ulster Scots, in Belgium Flemish next to the more prestigious language French, in France Basque, Breton, Alsatian, Flemish, Occitan etc. and in Italy for instance Sardinian, Friulian, Ladin, Franco-Provencal, Albanian, Greek and German. Not everywhere the linguistic differences ended in violence. However, even in a quiet and peaceful country as the Netherlands the Frisian movement could only make great progress after the riots of 16 November 1951, *Kneppelfreed* 'Truncheon Friday', on which Friday a large crowd were forcefully driven apart by the police when a judge rejected the use of Frisian and sentenced a journalist and Frisian poet who protested against it.

The situation in Flanders was and is much more delicate. From the beginning of the Kingdom of Belgium in 1830, French was given a privileged position, although half of the country did not speak the language, they spoke Flemish dialects. French was not only the language of prestige, but also of power. Consequently, the Flemish elite gave up its own language and started to speak French. Already in 1840, a group of prominent people from Flanders protested the hegemony of French. They started a petition in which they asked for recognition of Dutch[10] in education, administration and court in Flanders.[11] The francophone prime minister Rogiers answered that a monolingual Belgium, with French as its official language, was a necessity. The protesters did not accept this and continued to fight for the recognition of their language and for equal rights for its speakers. This led to a victory of a Flemish coalition in the local Antwerp elections of 1866. Consequently, Dutch became the language of the local administration in this city.

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[9] For a more detailed discussion of some language conflicts in Western and Central Europe, see Hamans (2018, 173-179)

[10] The standard language in Flanders is called Dutch just as in the Netherlands.

[11] From 1815 till 1830 Belgium was part of the Netherlands. Based on the language policy of the then king William I Dutch had been the language of education, administration and court in Flanders during this period. The memory thereof may explain why the Flemish language struggle started so early (Hamans 2016, 46-51).

However, this success of the Flemish Movement did not change the national language situation. In 1860, two Flemish workers were sentenced for murder and beheaded after a completely French speaking court trial. Even their lawyers spoke French only. A year later it turned out that the two were innocent. Twelve years later, a monolingual Dutch-speaking labourer, wanted to declare the birth of his son. He only knew Dutch, so he wanted to fulfil his duty in Dutch, which turned out to be impossible. He was even fined by the court. As can be imagined, this incident sparked much commotion. Protest marches and riots were the result. The government reacted with a first language law in 1873.

The law did not end the language conflicts, especially not because the Frenchification of social life in Flanders continued. French remained not only the language of the elite but also a language with a superior status. So, everybody in Flanders who wanted to make a career had to learn French. Unfortunately, the top of the Roman Catholic Church in Belgium also was francophone and did not support the case of Dutch. The leader of the Belgian Roman Catholic Church, Cardinal Mercier, still claimed in 1906 that Dutch was not a language of science and therefore never could become a language of higher education.

Despite all improvements in legislation, it took till 1968 that the University of Leuven, which is in the Dutch speaking part, accepted Dutch as the language of education. A protracted and violent student revolt was necessary before French was abolished as the first language of education. Still, not all language conflicts are solved. There are still problems and sometimes protest marches, violent protests and resistance, and political conflicts.[12]

In France, where acceptance of minority languages was anathema for the authorities for a very long time, the position of defenders of the rights of minority languages was weakened by the collaboration of some of the leaders of these groups with the German occupiers during World War II. Especially 'Breton suffered from the legacy of segments of *Emsav*, 'the Breton movement', joining up with Nazism during the war in hopes of gaining autonomy for Brittany' (Sonntag 2003: 39). However, 'by the mid-1970s, the level of ethnic conflict in France had reached a scale unequalled – and for most observers unpredicted – in modern French history. In four of the regions, Brittany, Corsica, Occitanie and the Pays Basque, the conflict had escalated to the use of clandestine political violence against the French state and its symbols. The best known of the incidents occurred in 1978 with the bombing of the Palace of Versailles by Breton nationalists' (Jacob and Gordon 1985: 122-124). Even after the amnesty that President Mitterrand granted to the Breton activists in 1981, releasing 19 prisoners who were sentenced together to 148 years in prison, things did not calm down. In the 1990s, the Armée Révolutionnaire Bretonne, 'Breton Revolutionary Army', ARB, again committed a series of attacks (Bergère 2006: 106 fn.19). In April 2000, the ARB tried to blow up a post office in Rennes and two McDonald's restaurants in Pornic and Quévert (Sonntag 2003: 37).[13]

The FNLC, Fronte di Liberazione Naziunale Corsu, 'National Liberation Front of Corsica', which is a separatist organisation that not only fights for linguistic rights but strives for complete autonomy, still commits attacks regularly. It started its violent attacks in 1976[14] and was still active in the summer of 2016.[15] The FNLC actions also demanded fatalities.

[12] For a short overview of the Belgian language struggle, see Hamans (2016: 48-51) and the literature quoted there.
[13] For an overview of the dozens of attacks claimed by Breton nationalists between 1966 and 2000 see https://fr.wikipedia.org/wiki/Chronologie_des_attentats_attribu%C3%A9s_%C3%A0_l%27Arm%C3%A9e_r%C3%A9volutionnaire_bretonne. For more details about the ARB and its predecessor Front de Libération de la Bretagne, Liberation Frond of Brittany, FLB, see Chartier and Cabon (2005)
[14] In the night of 4 May 1976 26 bombs exploded all over Corsica.
[15] For more details about about the actions of this organization and its history see http://www.unita-naziunale.org/portail/Ribellu_2001.htm

Linguistic conflicts in Spain

Also, in Southern Europe linguistic conflicts became urgent in the second half of the 20th century. Spain, now known for its conflicts between the region of Catalonia and the central authorities in Madrid, was the first European country that recognized the identity of regional minorities. It was the leftist leadership of the Second Spanish Republic (1931-1936) that introduced the first statutes of autonomy for some regions in which the special place of their different languages was recognized.

> In the second half of the XIXth century, a growing regional cultural and literary romanticism appeared, also in the regions where a vernacular language was spoken. At the same time, a social and cultural recognition of the specific identities of the territories concerned developed and triggered a process towards a new and different territorial organisation. The political battles, and above all the civil wars of the XIXth and XXth centuries prevented a harmonious convergence of the two positions. During the Second Spanish Republic (1931-1936), a statute of autonomy was approved by the Spanish Parliament for Catalonia in 1931 and for the Basque country in October 1936. In Galicia the process was not completed owing to the dramatic events of the 1936-1939 Civil War. (Experts' Report Spain 2005: 5).

However, when the Franco regime seized power in 1939, the process of recognition of (linguistic) minority rights stopped abruptly. The unity of the country became the main goal again. Autonomy was considered a curse. Anything which could be interpreted as an expression of minority rights was oppressed. This lasted till the end of Franco's regime in 1975 and the first democratic elections two years later. The oppression must be taken literally. The Catalan leader Lluis Companys was tortured and executed in 1940.[16] Distribution of books printed in Catalan was forbidden. Priests who spoke Galician to a foreigner were banished to small remote hamlets in the mountains, as the Dutch geologist Kroonenberg (2014: 290) experienced. The Basque linguist Itziar Laka told how her grandmother had to spend a night in jail, since she had dared to speak Basque in public to an acquaintance from a village who did not speak Spanish (Hamans 2015: 62). During the Franco regime, Spain believed in the dogma of *homogeneism* (Blommaert and Verschueren 1991), which is a view of society in which differences are seen as dangerous and centrifugal. The recent controversy between the region of Catalunya and the central Spanish government shows that the dogma or, maybe better, dream of homogeneism is still alive.

The result of the Franco policy was the rise of protest movements. In the Basque country, for instance, Euskadi Ta Askatasuna 'Basque Homeland and Freedom', ETA, was founded in 1959. The protests of the Eta were not limited to verbal statements. In the almost fifty years of ETA resistance more than 800 people got killed (Winkels 2017). The protest from the side of the Catalonian and Galician autonomy movements was of a less terrorist character, although these groups also committed bomb attacks. The Catalan movement Terra Lliure or TLL 'Free Land' was active between 1978 and 1995. Between 1980 and 1985 TLL committed more than fifty bomb attacks,[17] fortunately without many victims; the Galician Loita Armada Revolucionaria, LAR, 'Revolutionary Armed Struggle', and its successors not only aimed at autonomy or independence, but also had an extreme leftist signature. It specialized in robberies and bombings.[18]

The internal conflicts in Spain were not exclusively linguistic in nature, but the prohibition of their own language played an enormous role in the struggle of minorities for autonomy. After Franco's death in 1975 the new democratic government led by social-democrats took a different direction and consulted with representatives of minority movements, which led to a new constitution (1978) in which Article 2 granted a certain autonomy to nationalities and

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[16] https://www.biografiasyvidas.com/biografia/c/companys.htm
[17] Retrieved 8.1.2018 from https://en.wikipedia.org/wiki/Terra_Lliure
[18] Retrieved 8.1.2018 from https://en.wikipedia.org/wiki/Loita_Armada_Revolucionaria

territories that make up the country (cf. Devolution 2014). This new approach led to a 'result [which] is widely viewed as a success today. Since the end of the Franco era, Spain has been largely peaceful, stable, and democratic' (Devolution 2014: 19). However, in 2010 the Spanish Constitutional Court, in which conservative Spanish nationalists are still in the majority, rejected a new Catalan statute for autonomy after four years of deliberation. This statute was approved by the Catalan Parliament in 2005, the Spanish Congress in 2006 and subsequently ratified by a majority vote in a referendum. However, the conservative nationalist party Partido Popular which adheres to a centralist view of homogeneism inherited from Franco's regime, appealed to the statute and has largely been proved right (Nationalia 2010). The ruling of the Court met with opposition in Catalonia and led to a reinforcement of separatist ideas, creating new unrest and political turmoil recently.

Post-Habsburgian language conflicts

Language conflicts are often the consequence of new political developments, such as in the case of Spain described above, but sometimes also due to the shifting of national borders. Especially, the demise of the Habsburg Empire in 1918 led to a new language map of Central and South-East Europe. The language struggle in Alto Adige/Süd-Tirol, now part of Italy, is an example of a conflict, which resulted from the collapse of the Austro-Hungarian Empire. This region in the North-East of Italy is supposed to be bilingual. After the Second World War, the Austrian and Italian governments finally signed an agreement, the so-called Gruber – De Gasperi agreement, in which German was recognized as an official language in this region. However, a part of the German-speaking majority of Südtirol did not feel satisfied with the agreement. They fought for more autonomy and more language rights. After unsuccessful mediation of the UN in 1960/61 heavy terrorist attacks took place. The debate lasted for almost a decade, till finally in 1969 a compromise was reached. However, it took another good twenty years before Austria and Italy were able to inform the UN in 1992 that the pending problem of Alto Adige/Süd Tirol had come to an end (Von Hartungen 2002: 14-19).

The greatest post-Habsburgian linguistic problem, however, emerged from the Treaty of Trianon (1920). This treaty, which was the peace agreement to formally end the First World War between the Allies and Hungary, defined the new borders of Hungary. The effect was that one third of the speakers of Hungarian came to live outside Hungary. Huge Hungarian-speaking minorities lived and continue to live in Romania, Czechoslovakia (now Slovakia), Soviet-Russia (now Ukraine) and Yugoslavia (now Serbia) (Fenyvesi 1998: 145). The possible problems and conflicts which could have resulted from this situation did not attract much reaction in Western Europe. After the establishment of NATO in 1949 and the subsequent establishment of the Warsaw Pact Europe was divided in two areas of interest. Western Europe concentrated on itself and the US, whereas Eastern-Central Europe kept its eyes focused on Moscow. In addition, the communist's regimes in these countries did not allow protests or insurgent movements.

Recently, the policy of the Hungarian government under Prime Minister Orban has led to unrest. Orban offered passports to Hungarian speakers in neighboring countries and called for the acceptance of dual nationality by the governments of these countries and wanted the 'new' Hungarians to be able to take part in Hungarian elections, which led to a certain animosity between the Hungarian government and the governments of Slovakia, Rumania and Serbia (Gardner 2014). He even accused Ukraine of discriminating, intimidating and using violence against its Hungarian minority, which was met with scepsis outside the circles of political friends of Victor Orban (McLaughlin 2018).

The Charter, a pre-1989 product

Because of the division of Europe into two parts, a Western Alliance concentrated in NATO, EEC (later EU) and the Council of Europe, and the Eastern Alliance of the Warsaw Pact dominated by Soviet Russia, the interest in the linguistic problems of the countries outside the scope of the Council of Europe was marginal or non-existent in Western European political and linguistic circles.

Moreover, one should not forget that several governments in Eastern-Central Europe just wanted to stress the homogeneity of their countries. Before the Second World War Eastern-Central Europe used to be a patchwork of minorities. After the ethnic cleansing by the German Nazis and by the post-war governments[19] the new regimes wanted to stress their new unified national character. Therefore, the centralized governments only accepted a few well recognizable minorities. All the other groups were forced to give up their ethnic identity and language. For instance, the Polish government did not want to recognize Kashubian (Szwajczak 2013: 83-84).[20] The language was considered to be a Polish dialect and the culture was seen as mere folklore. It was even claimed that the Kashubians had behaved treacherously during the Second World War, because of the special treatment they received from the Nazis (the German occupiers assumed a certain kinship between Kashubian and German because of the great number of Low German loanwords In Kashubian). This allegedly unpatriotic behavior was an extra argument not to grant them any special rights.

After the Fall of the Berlin Wall, the rapprochement to Western-Europe and membership of the European Union in 2004, the issue of minorities and their languages became negotiable. Poland signed the Charter in 2003 and ratified it 2009.[21] The Polish *Act on National and Ethnic Minorities and on the Regional Languages* (2005) is already ahead of the list of languages to which the Charter would apply and enumerates a great number of ethnic and national minorities and their languages and also recognizes Kashubian as a regional language.[22] However, the position of Silesian is still a matter of debate. In these discussions the Committee of Experts of the Charter also plays a prominent role (Kamusella 2012).

As said, nobody in Western Europe bothered about the problems of linguistic minorities in Eastern-Central or Eastern Europe till the Fall of the Berlin Wall in 1989. The focus of the debate was on the vehement and often violent linguistic conflicts in Western Europe. In addition, the countries of Eastern-Central and Eastern Europe were not members of the Council because of the very limited democratic status of their governments and their lack of respect for civil rights. And it was the Council of Europe, the body for the promotion of democracy and civil rights in Europe, were the debate about the linguistic rights of minorities started. Therefore, the Charter, which was drafted before 'the dramatic changes in central and eastern Europe' took place, was set up 'in the lights of the needs of the countries which at that time were already members of the Council of Europe' (Explanatory report 1992, sub 12). In some cases, for

[19] After the German defeat in 1945, millions of Germans who lived in what had now become Poland, Czechoslovakia or Russia were expelled to Germany, forced or not, by the governments of these countries, the so-called *Heimatvertriebenen* 'expellees'.

[20] Kashubian is a West-Slavic language, spoken in North-Central Poland. The language belongs to the same West-Slavic subgroup as Polish, but is much more influenced by Low German, Polabian and Old Prussian (Stone 1998: 49-50).

[21] https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/signatures

[22] This Act makes a clear distinction between national and ethnic minorities. Examples of the first group are Czechs, Germans, Slovaks, and Jews, whereas Roma and Tartars among others are considered to belong to ethnic minorities. The languages spoken by these two groups of minorities are called minority languages. The speakers of these languages have the right to use their language in public life, the authorities have the duty to support these languages. Next to these minority languages, the Act (art. 19.2) also recognizes a regional language, Kashubian. The rights and obligations associated with this recognition are similar to that of the minority languages (Pisarek 2011).

instance in the discussion about the status of Frisian in the Netherlands and in Spain, the Charter turned out to be a useful instrument to settle language debates and conflicts.[23] However, when after the Fall of the Berlin Wall in 1989 new countries joined the Council, the Charter and all other treaties, conventions and agreements extended their application to the new member states without being adapted to the specific sensitivities and conflicts in these states.

The Role of the OSCE

One of the problems the drafters of the Charter could not have foreseen was the role of a former 'colonial' language and the related demand for a new national language. In Western Europe the indigenous regional and minority languages suffered from the prestige of the national language and the resulting contempt and oppression by speakers of the national language. During the longest period of Soviet rule the situation was similar:[24] Russian was the national language and expanded all over the country sliding aside the languages of ethnic groups that did not have Russian as its mother tongue. However, after the breakup of the Soviet Union Russian, the former national language of the whole Soviet Union, became a numerical minority language in for instance the new Baltic States and Ukraine. This now minority language was not considered as an indigenous language, but as imported by the colonial empire, albeit a long time ago. In addition, where usually minority languages are seen as languages of little prestige, also by many of their own speakers, Russian was still a language of high prestige in the eyes of most of its speakers in the new countries but at the same time was considered a symbol of oppression by large groups of citizens of the countries that regained their independence. Whereas in the 'old' member states of the Council of Europe nobody questioned the need to learn and speak the national language – and therefore the Charter does not speak about this issue – there were groups of Russian speakers in several of the new member states who even denied the value of speaking the new national language. Since their compatriots understood Russian because of the former educational system they simply but mostly implicitly claimed the right to stay monolingual Russian. The Charter does not offer a solution for this conflict since it was drafted before this problem became an issue. However, the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe, OSCE, did due to his different perspective. Already in the Oslo Recommendations (OSCE 1998: 2) the High Commissioner, HCNM, pointed to the balance that is required between the rights of minorities and the requirements that a state can make for its proper functioning:

> After five years of intense activity, the HCNM has been able to identify certain recurrent issues and themes which have become the subject of his attention in a number of States in which he is involved. The linguistic rights of national minorities, i.e. the right of persons belonging to national minorities to use their language in the private and public spheres, is such an issue. International human rights instruments refer to this right in a number of different contacts. On the one hand, language is a personal matter closely connected with identity. On the other hand, language is an essential tool of social organization, which in many situations becomes matter of public interest. Certainly, the use of language bears on numerous aspects of a

[23] Unfortunately, Belgium never signed the Charter because the federal government was scared that the Charter might disturb the delicate balance between the language groups. France signed, but so far did not ratify the Charter since the French Constitutional Council decided that The European Charter for Regional or Minority Languages contains clauses contrary to the Constitution (Decision 1999: 412). Therefore, the Constitution must first be changed before the Charter can be ratified. However, due to the debate in France about the Charter several local and regional authorities introduced a local Charter almost similar to the European Charter (see https://www.coe.int/en/web/european-charter-regional-or-minority-languages/promoting-ratification-in-france).

[24] Depending on the ideas and preferences of the actual ruler Russian language policy changed during the Tsarist and the Soviet times several times. For a history of the Russian language policy see Bowring and Borgoiakova (2017).

State's functioning. In a democratic State committed to human rights, the accommodation of existing diversity thus becomes an important matter of policy and law. Failure to achieve the appropriate balance may be the source of inter-ethnic tensions.

In his Ljubljana Guidelines (OSCE 2012:17) the High Commissioner again stressed the need to find a balance between the rights of minorities and the needs of a state.

[I]t is essential for societies to find the appropriate balance between the degree of separation that is necessary to the free expression and development of diversity on the one hand and the establishment and strengthening of links between and among the diverse communities of a society as a whole on the other. If cross-community links are not sufficiently developed, integration is hindered, putting cohesiveness and, ultimately, stability at risk. (…) The linguistic rights related to education for persons belonging to minorities, while part of essential minority rights, should not result in parallel and non-interacting communities within a country.

The Recommendations and Guidelines can be read as an appeal to national authorities to grant and guarantee minorities special rights, at the same time, however, the High Commissioner warns minorities not to aim at isolation. In language terms he calls for individual bilingualism: to speak and use one's mother tongue in private and public and to master the national language in order to become a full member of the national society. In this respect, the Recommendations and Guidelines aim at the same result as the Charter although from a different perspective. The Charter claims the linguistic rights of speakers of regional and minority languages next to the command of the prestigious official language. The HCNM points to the need of a balance between the inalienable rights of linguistic minorities and the social needs of a country, which may consist of the need to master an overarching national language next to one's mother tongue.

While States have an obligation to protect and promote minority languages and the right of persons belonging to minorities to learn and use them, minorities share with the majorities the responsibility to participate in the cultural, social and economic life and in the public affairs of their wider society. This participation implies, for instance, that persons belonging to minorities should acquire adequate knowledge of the State or official language(s). (OSCE 2012: 52)

This recommendation of the HCNM is not followed by parts of the Russian speaking minorities in Ukraine and the Baltic States[25]. These groups still believe in the former superior position of the Russian language and therefore expect others to speak their language instead of learning the official language of their compatriots. For them the fall of the Soviet-Union was a 'time when borders were moved across people practically overnight and [when] about 25 million Russophones found themselves living in other countries often as conditional members of different linguistic societies' (Ryazanova-Clarke 2014 quoted from L'nyavskiy-Ekelund 2016: 10).

Russification of Ukraine

When Ukraine regained its independence in 1991, the new country inherited the consequences of the Russian language policy.

It is a known fact that for the last 300 years the Russian empire has conducted a forced language and cultural assimilation policy towards the non-Russian population (…), which on Ukrainian territory

[25] The situation in Belarus is much more complicated. The language situation in other former Soviet countries such as Kazakhstan, Georgia and Armenia is incomparable with that of Belarus, but also far too complicated to discuss here.

resulted in a co-existence of two languages, Ukrainian and Russian, along with various forms of bilingualism and diglossia (L'nyavskiy-Ekelund 2016: 9-10).

Due to Russification policy, 'Russian was the *de facto* state language' (McKishnie 2012: 24).

Russification was first encouraged among social and political elites, but soon spread throughout all strata of the population in many Soviet states (…), causing discrimination and oppression of minority languages. The countries in which Russification proceeded most thoroughly were Belarus and Ukraine. (…) The local Ukrainian and Belarussian languages became to be seen as 'inferior' or 'less sophisticated' languages than Russian and knowledge of Russian became associated with academic and economic success. As a result, large parts of the population in these countries shifted towards the use of Russian in much of their daily lives. This was most notably seen in the education system, when in 1938 a decree made Russian an obligatory subject in all Soviet schools (McKishnie 2012: 24).

In addition, the 'industrialization in the USSR also resulted in populating the majority of the eastern and southern urbanized industrial regions with Russian speakers, with 80% of them being Russians and the rest using Russian in everyday life' (L'nyavskiy-Ekelund 2016: 11).

Ukraine also inherited a 1989 law 'On Languages in the Ukrainian Soviet Socialist Republic', which remained in force with a few amendments from 1995 for many years due to the heated and politized debates about the position of both Ukrainian and Russian in the new state. This law, still enacted in the Soviet era, can be seen as a break with the Russian past (Kulyk 2006:291). Although the law still promoted Russian as the language of public communication, it accepted Ukrainian as the native language of ethnic Ukrainians and as the state language. However, the law also mentions other national languages without specifying which languages are meant. In addition, Russian is guaranteed a special place. For instance, officials have to speak both Ukrainian and Russian. As Bowring (2011: 16-20) shows the law is highly ambiguous and even contradicts international conventions.

Kivalov-Kolesnichenko Law

The first own constitution for Ukraine was adopted in 1996. Article 10 of the Constitution deals with the language issue and calls Ukrainian the state language of Ukraine. However, it also gives a special place to Russian, although together with 'other languages of national minorities':

In Ukraine, the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is guaranteed

According to Kulyk (2006: 300) this wording made clear that Russian had no longer a special place. It became a minority language just like so many other languages spoken by ethnic groups. However, as Bowring (2011:24) noticed, Russian was specifically mentioned, whereas other minority languages were not. An advisory decision of the Ukrainian Constitutional Court, delivered on 14 December 1999, tried to settle the discussion and stated that Ukrainian was the 'compulsory means of communication for officials of government bodies and local self-government structures, and in all spheres of public life including education' (Bowring 2011: 24). However, local governments had the right to use Russian or other languages of national minorities along with Ukrainian. Unfortunately, both the 1989 Law, the Constitution and the advisory opinion of the Constitutional Court only existed on paper, as Bowring (2011:25) had to conclude.

This factual legal gap gave the opportunity to two MP's, Serhiy Kivalov and Vadym Kolesnichenko, to draft a new law that should replace the 1989 law. The revised draft of this law called 'On principles of the State Language Policy' came into force in August 2012. This law

made a perverse use of the Charter: it not only mentioned the extensive list of regional and minority languages Ukraine enumerated in 2006 when ratifying the Charter but also gave all possible rights to all these languages, even where that could be detrimental to the national language, which goes at least against the spirit of the charter. After all, the charter defends the recognition of the linguistic rights of minorities, but it is not intended to affect the position of the national language.

The law, usually called the Kivalov-Kolesnichenko Law, 'kept Ukrainian as the state language, yet considerably expanded the use of regional languages, should the native speakers of these languages constitute at least 10 percent of the population of a region[26]. The law embraced eighteen languages but was clearly directed at Russian, as few of the other languages met the 10 percent threshold in any region' (Ogarkova 2018). Consequently, a number of regions and cities, especially in the southern and eastern parts of the country, declared Russian a regional language since at least ten percent of their population was Russophone. Totally, 13 out of 27 Ukrainian administrative units accepted Russian again as an official language (Ogarkova 2018)[27]. As could be expected this led to new debates and even to confrontations, since the law was 'perceived as endangering the use of Ukrainian' (Kulyk 2013, 281)[28], especially where the law gave freedom to the use of Russian in the media. Also, the Venice Commission[29] criticized the law seriously:

> [T]he question remains (…) whether there are sufficient guarantees (…) for the consolidation of the Ukrainian language as the sole State language, and of the role it has to play in the Ukrainian multilinguistic society. The Venice Commission can only reiterate its call (…) for a fair balance between the protection of the rights of minorities, on the one hand, and the preservation of the State language as a tool for integration within society, on the other hand (Venice Commission 2011: para 66)

No wonder that immediately after the then president Yanukovych[30] fled the country in February 2014, the Verkhovna Rada, the Ukrainian Parliament, abolished the Kivalov-Kolesnichenko Law. However, neither the then acting president nor the subsequent president signed or vetoed the law abolishing the linguistic law under attack, which implied that the 2012 law remained in force. One had to wait till April 2018 when the Constitutional Court ruled the law unconstitutional and rendered it invalid because of procedural failures (Ogarkova 2018).

Consequently, the Committee of Experts of the Charter only could evaluate the implementation of the Charter under the Kivalov-Kolesnichenko Law during the third cycle of the monitoring process. In its Experts Report (2017) the committee noticed that in fact only Russian, Hungarian and Romanian are promoted and supported. The other minority languages merely have an emblematic presence in local administration or are completely absent. In practice,

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[26] Literally, the law says that 'a language can become an official regional language if at least 10% of the inhabitants of the region declare that language to be their native language.'quoted from Droogsma 2017: 15)

[27] According to the State Report for the 3d cycle of the monitoring process of the Charter (2016:6) there were nine regions where the regional authorities recognised Russian as a regional language.

[28] According to Moser (2013: 185) this was the aim of the authors of the law who were two politicians of the past and who had an inclination towards Russia. For instance, Koleschnichenko has a suspicious track record when it comes to the rights of minority languages. During the debates about the ratification of the Charter he held the view that Ukraine was Russian speaking. Kivalov's name is linked to the election fraud that occurred in 2004 and that led to the Orange Revolution. Kivalov was the head of the Central Election Committee that declared Viktor Yanukovych the winner instead of Viktor Yushchenko.

[29] The Venice Commission is an independent consultative body set up by the Council of Europe. The Commission advises on issues of constitutional law, including the functioning of democratic institutions and fundamental rights, electoral law and constitutional justice.

[30] For a detailed overview of the language issues under president Yanukovych and the discussions during the ratification process of the Charter see Moser (2013).

it is mainly Russian which is supported. In comparison to the second monitoring cycle the situation for Russian improved considerably.

> Ukraine has implemented most of its undertakings under the Charter in respect of Russian. The Russian language is used as a medium of instruction at all levels of education. Russian is the only language covered under the Charter which is used in technical and vocational education.
>
> Furthermore, Russian has been granted the status of regional language and is used by administrative and judicial authorities, for example on official forms and announcements. There is also a broad offer of radio and television programmes in Russian as well as of newspapers in Russian.
>
> (…)
>
> There are also many cultural activities carried out in Russian and practically all the undertakings for Russian under Article 12 are fulfilled (…). In addition, there is a strong presence of Russian in economic and social life. (Experts report 2017: 2.14.1. 87-90)

However, in their Recommendations for the Committee of Ministers the experts recommend that Ukraine must develop a structural approach and policy for all languages covered by the Charter (Committee of Ministers 2018).

Ukrainian as a component of national identity

The Preamble of State Report (2016:4) prepared for the third monitoring cycle of the Charter the preamble agreed with the current practice and clearly stated that

> Article 10 of the Constitution of Ukraine stipulates that the state language of Ukraine shall be the Ukrainian language. The State shall ensure comprehensive development and functioning of the Ukrainian language in all spheres of social life throughout the entire territory of Ukraine.

However, the following sentence already made clear that Ukrainian has to compete with Russian:

> Free development, use, and protection of Russian and other languages of national minorities of Ukraine shall be guaranteed in Ukraine.

Formally, Russian was put on par with other minority languages, however, the fact that Russian was the only language which was mentioned by name in the Constitution gave it a special position[31]. This special position was stressed when the Kivalov-Kolesnichenko Law was put in practice and even in such a way, that a counter-offensive from the side of the promotors of Ukrainian could be expected. After all, the language issue is one of the most politicized topics in Ukraine.

In addition, the position of Russian was seriously damaged by the Russian annexation of the Crimea and the war in the Donbass. Russia was now seen as an aggressor by the vast majority of Ukrainians. Consequently, the language of the aggressor now became the symbol of the enemy for a growing part of the Ukrainian people, while Ukrainian was considered the language of unity and freedom.[32] However, there are many people with a full-fledged Ukrainian identity but with Russian as their mother tongue, as Kulyk (2015) noticed.

> One of the most talked about consequences of recent events in Ukraine is a dramatic transformation in national identity. Social activists and various elites regularly assert their increased self-

[31] Officially Russian was put on par with other minority languages, actually the Kivalov-Kolesnichenko law 'was widely seen (and condemned) by the general public as a way of allowing Russian to function on par with Ukrainian'. (Kudriavtseva 2018)

[32] For an overview of the language attitude in Ukraine after 1991 see Kulyk (2017).

identification as Ukrainians, pride in Ukrainian citizenship, attachment to symbols of nationhood, and readiness to defend and work for Ukraine.

(…)

One aspect of the identity content that deserves particular attention has to do with the roles of the Ukrainian and Russian language. While many Russian speakers proudly assert their Ukrainian identity, which they link not to ethnic origin or language practice but to civic belonging, public discourse reveals conflicting opinions about the consequences of this identity choice for language use in society. While Ukrainians largely support the uninhibited use of Russian, they also want the state to promote Ukrainian, which they perceive not only as the language of the state apparatus but also as a national attribute. The failure of the post-Euromaidan leadership to adopt measures to promote the use of Ukrainian is bound to provoke discontent among a large part of society which views the titular language to be an essential element of national identity (Kulyk 2015: 1-2)

Hegemony for Ukrainian

The provocation that Kulyk forecasted worked and the counterattack against the privileged position of Russian came with the 2017 'Law on Education' which restricts the use of Russian, Polish, Hungarian, Bulgarian, Romanian and Slovak as language of instruction to kindergartens and elementary schools, thus till the age of ten. Article 7 of the new law mandates the use of Ukrainian as the language of instruction in subsequent secondary schools. Minority languages, however, may be taught in separate classes. If the minority language is a European Union language, additional classes will be offered in that language through high school (Stormont 2017).

The arguments given for this new law are varied: required knowledge of the national language, especially for children who grow up in monolingual minority language environments, but also the need to strengthen the national unity and the national security. Ukraine's Minister of Foreign Affairs Pavlo Klimkin claimed that 'Ukrainian remains de-facto subjugated to Russian till this day as a result of centuries of linguicide that Ukraine suffered under different empires' (quoted in Shandra 2017). This situation can apparently only be changed by strengthening the position of the Ukrainian language.

The new education law met with criticism. Thorbjorn Jagland, Secretary General of the Council of Europe gave as his opinion that 'Ukraine's new language law is 'walking a fine line''. He defended the right of Ukraine to promote its national language and he also stressed the need for European minorities to be fluent in their state's official language, since it is vital for their full participation in society, however, at the same time he also emphasized the duty of the state 'to provide the right and ability to minority language speakers to use their mother tongue both culturally and in official exchanges' (Jagland 2017).

Ukraine sent the new law to the Venice Commission for comments. These were highly critical. The Commission endorsed the importance of Ukrainian as a means of nation building and as a crucial component of national identity. However, 'the promotion of the State language shall not be done to the detriment of regional or minority languages' (Venice Commission 2017: 15-16). Especially the difference the law makes between linguistics groups – speakers of Ukrainian, speakers of indigenous languages, such as Crimean Tatar, speakers of EU-minority languages such as Hungarian and Romanian, and speakers of non-EU-minority languages, such as Russian, – appeared as a form of discrimination to the committee (Venice Commission 2017: 22-25). The Commission saw no support for this distinction in the facts and figures presented. For example, pupils from the Russian-speaking minority are not doing worse but just better at school than children with a Hungarian or Romanian background (Venice Commission 2017: 14). The Committee argued for an adequate balance between the need of the state to promote the national language and the rights of the minorities to use and cultivate their languages.

The criticism did not come from international organizations only. The debate became again so heated, that some observers described it as a language war (De Waal 2017). As could be expected, the special position of EU-languages versus non-EU-languages attracted a lot of attention. After all, the exception made for EU-languages by a non-EU-member state sounds rather far-fetched. It looks as if this this criterion has only been raised to exclude Russian.

The 'Law on Education' was not the last set in the language chess game. On April 25, 2019, the Verkhovna Rada of Ukraine adopted the Law of Ukraine 'On ensuring the functioning of the Ukrainian language as the state language'.

> [T]he primary task of the Law is to eliminate the remnants of a discriminatory approach to the Ukrainian language, which is the legacy of the era of the Russian Empire and the USSR (…). The law regulates the functioning of the law and the use of the Ukrainian language as the only state in the spheres of social life throughout Ukraine. The Ukrainian language should be used by public authorities and local self-government bodies, as well as in other public spheres of public life (Explanation 2019).

In fact, this anti-Soviet legacy attitude makes it impossible to accept exceptions.

> Local authorities are prohibited from interfering with the use of the Ukrainian language. Attempts to give official status to any other language will be treated as "actions aimed at forcibly changing or overthrowing the constitutional order," which is a serious crime (Shandra 2019).

This provision cannot be read other than as directed against the practice grown from the 2012 L Kivalov-Kolesnichenko Law. Moreover, the 2019 Law defines the national language in such a restricted way that multilingualism is excluded.

> The law states that the only official language in Ukraine is Ukrainian and therefore "*any attempts to implement multilingualism in Ukraine"* are against the Ukrainian Constitution and seen as those "*provoking a language schism in the country, as well as ethnic strifes aimed at a forceful change or overthrow of the constitutional order.* (Romanenko 2019)

However, the Constitution mentions explicitly Russian, as shown above. Therefore, it is unclear how this contradiction can be solved. The law only applies to the public sphere. In private communication and in religious services any language may be used. However, the law applies to education, culture and media as well. Mass media may publish or broadcast in a minority language but are obliged to present an identical, translated version too. This may become a serious, financial, problem for many non-Ukrainian media. Even the English Kyiv Post fears not to be financially strong enough to pay for these extra costs (Cohen 2018). Small indigenous media fear their future but not only these.

> Some Russian language media outlets will be unable to meet the new requirements and could be forced to shut down as well. This is especially true for literary magazines and regional publications. Plenty of loyal and patriotic Ukrainians – particularly in the south and east – speak Russian, and this law might needlessly antangonize them by sending the message that Kyiv does not respect their linguistic or cultural preferences (Cohen 2018)

It is much too early to evaluate this new law, especially since the law was adopted in the echo of heated election campaign, of which the law formed a crucial part. However, it is clear that minorities such as speakers of Russian or Hungarian are not precisely happy with the law. In addition, the governments in their 'mother countries' use or abuse the emotions of their fellow mother tongue speakers and criticize the language policy of the Ukrainian government heavily.

Conclusion

The new Ukrainian laws are too recent to be discussed by the Committee of Experts of the Charter. The 4th monitoring cycle just started. The State Periodical report is due for June 2019. However, there is no doubt that the experts will have many questions. It is too early to anticipate these questions.

However, what is striking is that the debate in Ukraine resembles the debates of the late 18th and 19th century in Western Europe, especially those about the ethnolinguistic assumption of a special relation between nation and language. Ukraine is in a period of nation building. A national language can be crucial in this process, as Grégoire, Herder and Fichte claimed. That is exactly why the new laws stress the role of the national language. However, by over-emphasizing the importance of the overarching state language speakers of minority languages may get into a tight corner. They may feel threatened in their identity, especially when their language will run the risk of being swept away and consequently there will be no room for bilingualism. In such a situation a parallel with the West-European language conflicts and wars of the 20th century is not unthinkable. Especially, since the language situation in Ukraine is even more complex than in most of the West-European countries. Maybe the Belgian language conflicts can be compared with that of Ukraine, and of the Baltic States. While Russian was the imperialistic 'colonial' language in the last countries, it was French that was the predominant and advancing language in Flanders. Just as it was Russian in Ukraine, French was the language of administration and of cultural and economic power in Flanders. Perhaps the violent language conflicts in Brittany and the Basque Country can also be considered horrific examples. French and Spanish functioned as a mental occupation force in these regions, just as Russian in Ukraine.

It is not for outsiders to advise Ukraine. However, one may point to parallels. The ones with Belgium, Brittany and the Basque Country should be avoided. One better looks for best instead of worst practices. Ukraine signed and ratified the Charter; Ukraine is partner in the OSCE and member of the Council of Europe. So, Ukraine may make use of all the expertise gathered in these institutions. When it comes to languages, the OSCE and the Venice Commission argue for a fair and adequate balance between the needs of the State to promote the national language and the rights of minorities to protect their own identity, culture and language. The Charter and especially the Committee of Experts keep an eye on the rights of linguistic minorities without forgetting the importance of the nation and the national language. The international composition of the committee makes it likely that the experts are thoroughly aware of best practices all over Europe and of possible solutions for disagreements and to linguistic conflicts. It may be wise to make use of all these international experience and expertise, especially when the national debate is so politicized that it is unlikely that a balanced settlement can be reached.

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THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES AS A PEACE INSTRUMENT

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This paper summarizes the recent Ukrainian language policy and focuses on the role of the European Charter for Regional and Minority Languages in this respect.

In order to understand what the role of the Charter may be, first the background of the Charter is sketched. In connection herewith, the 19th century debate on the relationship between language and nation is stressed.

Subsequently a few examples of violent linguistic conflicts are presented. In the last part of the paper the emphasis is on the Ukrainian language debate. In addition, special attention is given to the role of the High Commissioner on National Minorities of the OSCE in the linguistic debates in former Soviet states.

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