

## Ukraine's 2017 Education Law Incites International Controversy Over Language Stipulation

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The Ukrainian parliament launched a long-expected education reform policy with the adoption of a new “law on education” in September 2017. This development was welcomed by civil society and Ukraine’s Western partners that have pushed for radical reforms in a variety of domains after the victory of the Euromaidan revolution. However, the new law provoked an outcry from nearby states – particularly Hungary, which was most vocal against the proviso – because it drastically reduced the use of minority languages in the education process. These states, whose coethnic populations in Ukraine would be heavily affected by the change, viewed the changes as violating minority rights and called on President Petro Poroshenko to veto the law. They warned that its implementation would jeopardize not only their country’s bilateral relations with Ukraine but also Ukraine’s European integration. Nonetheless, Poroshenko enacted the law, thus exacerbating tensions that have yet to be fully mitigated. The nationalist behavior of the parliamentary majority and the president in pushing the law is peculiar given their generally cautious approach to promoting Ukrainian as the state language. To understand why Kyiv supported a minority-insensitive law despite its predictable foreign policy repercussions, one should look at the domestic political, decisionmaking contexts. Similarly, it is the domestic contexts of the kin-states involved that can shed light on the harsh broadsides levelled toward Ukraine’s assertive move.

### **Moderate Language Policy**

The Euromaidan and the subsequent Russian military aggression against Ukraine brought about an abrupt shift of power in favor of Ukrainian opposition parties, and a drastic change of popular sentiment in support of nation-building and (the partially overlapping) pro-European policies. Facing limited resistance to change, the new government felt it could take resolute measures aimed at a radical break with the

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legacies of Soviet rule as long as it did not clearly violate democratic procedures or human rights. However, in contrast to the historical memory domain that experienced a sweeping campaign of decommunization, officials were rather cautious about making changes to language policy.<sup>2</sup> The government preferred to preserve the status quo or, at most, make only limited changes in specific areas.

Immediately after the Euromaidan's success in February 2014, the realigned parliament did make a radical move when it voted to revoke the 2012 language law that gave minority languages official status as "regional languages" and that has thus been seen by champions of the Ukrainian language as a means of renewed Russification. However, in view of domestic and international criticism of the move as ill-timed at best and discriminatory at worst, former acting president Oleksandr Turchynov blocked the resolution. The post-Euromaidan leadership seemed to conclude that the 2012 law was there to stay because abolishing it would ignite a confrontation within Ukrainian society that would ultimately play into the hands of President Vladimir Putin. Upon Poroshenko's election in May 2014, he limited his concern about the status of the Ukrainian language to supporting its legal status as the sole state language. At times, he even put more emphasis on the importance of English than Ukrainian. Later, Poroshenko came to support the idea of state promotion of the titular language but he never embraced the view that its promotion should be based on a comprehensive language law.

Not surprisingly, the loudest and most persistent opposition to this cautious approach came from deputies and activists who had long called for the strong promotion of the Ukrainian language. After the failed attempt to have the 2012 law annulled by the parliament, the deputies appealed to the Constitutional Court, but it did not begin to consider the appeal for more than two years (thus confirming its reputation as a body loyal to the presidential administration). It was only in February 2018 that a majority of judges came forth in support of annulling the law.

In the meantime, Ukrainian language activists focused on efforts to change language norms at least in regard to the most worrisome practices. They were particularly concerned with radio and television broadcasts where Ukrainian was increasingly marginalized (due partly to the 2012 law). The activists called for the introduction of special quotas that would put an end to what they viewed as discrimination against Ukrainian speakers. In June 2016, a law introducing a 35 percent quota of songs in the state language was adopted by a solid majority, which led to its radically increased presence on the airwaves and encouraged activists to apply a similar instrument to television. In May 2017, the parliament approved a bill prescribing a minimum of 75 percent of the state language for nationwide television broadcasters and 60 percent

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<sup>2</sup> See: Volodymyr Kulyk, "[Memory and Language: Ukraine's Divergent Policies on Two Controversial Issues](#)," PONARS Eurasia Policy Memo No. 462, March 2017.

minimum for local channels—although the very lenient criterion for what counts as a Ukrainian-language program likely results in a much lower actual share of its use. These developments demonstrated that when faced with strong initiatives for the expansion of Ukrainian, neither Ukraine’s coalition parties nor the president dared to object publicly since their constituencies could interpret it as them being indifferent to the national language.

In two other cases, moves to enhance the role of the Ukrainian language resulted from the interaction between the government’s interests in adopting a law regulating a certain domain and nationalist deputies insisting on the introduction of a clear norm on the use of the state language. The new “law on civil service” adopted in December 2015 stipulated that civil servants were obliged to master the state language and use it when on duty, thus rejecting an attempt to reproduce the 2012 law’s provision allowing the use, alongside the state language, of regional languages, which primarily meant Russian. In May 2017, it became mandatory for candidates for civil service jobs to present certificates of fluency in the Ukrainian. (Language activists criticized the government’s set of procedures for obtaining the certificate as not ensuring actual proficiency.) A similar albeit more resonant case involved the recent 2017 “[law on education](#)” where champions of Ukrainian insisted on formulating the language article in such a way as to radically curtail the use of minority languages. While the move was primarily intended to limit the presence of the still ubiquitous Russian language, it antagonized other minority communities in Ukraine with well-established education systems in their own languages.

### **A Nationalizing Move in the Education Field**

The reforms introduced by the new education law were among many radical changes in various domains that the post-Euromaidan government started preparing with the help of, and under pressure from, civil society and Western partners. As the new law could not but include an article on the language regime of educational activities, it became of interest to both Ukrainian language activists and representatives of national minorities who pressured the government for, respectively, the enhancement of the titular language and the protection of minority-language education. The education ministry announced that the new law would expand the use of Ukrainian in minority-oriented schools, which since the Soviet era had taught all subjects in locality-specific minority languages. The new legislation was intended to ensure that graduates gained high proficiency in the state language and could thus fully participate in Ukrainian society. Out of 305,000 children [enrolled](#) in minority-language schools in 2017-2018 in Ukraine, 91 percent were taught in Russian, followed by Romanian and Hungarian with 5 and 3 percent, respectively.

Since the early years of independence from the Soviet Union, several education ministers had called for similar changes when referring to the inadequate teaching of the

state language in minority-language schools, particularly in localities where a minority group constituted the majority of that area's population. The problem was most acute for speakers of non-Slavic languages such as Hungarian and Romanian who mostly lived in territories adjacent to their respective kin-states and had rather limited interaction with Ukrainian speakers. While previous initiatives to discontinue the exclusive education in minority languages failed due to the strong protests of minority organizations and their respective kin-states, the post-Euromaidan authorities were more sensitive to the demands of Ukrainian parties and activist groups that were enthusiastically pursuing a nationalizing agenda. Accordingly, after the draft adopted in the first reading in October 2016 included a language article that only moderately reduced the scope of minority languages, the education ministry had to defend its position not so much from representatives of the minorities as from activists acting in the name of the titular majority. In contrast to the ministry's preference for a mixed model whereby some curriculum subjects would be taught in minority languages and others in Ukrainian, the most militant critics demanded that instruction be in the state language only, while allowing exceptions for specific curriculum subjects such as language lessons and certain literature classes.

Since the education ministry rejected this demand as incompatible with the constitutional guarantee of minority rights, a version of the language article presented for the second reading did not much differ from the original. However, when the revised draft was debated in session on September 5, 2017, many deputies from the majority coalition and other factions harshly criticized its cautious approach to enhancing the titular language. When one of the critics [suggested](#) minority languages should only be used for specific curriculum subjects, an indicative vote on the matter showed that this outlook was more popular among deputies than the ministry's propositions.

Speaker Andrii Parubii asked the lawmakers to discuss the matter and come up with a compromise formulation. They developed a provision whereby minority languages could serve as means of instruction only in elementary schools, after which teaching would be all in Ukrainian. At the same time, the draft offered that "one or several subjects" could be taught in the languages of Ukraine's national minorities that are official languages of the EU, a category that basically includes all minority languages currently used in education except for the most widespread one, Russian. No voice was raised for a more generous treatment of Russian or other minority languages, and the bulk of the coalition voted for the proposed radical formulation, which many moderate deputies most probably considered as simply a lesser evil than the failure of the much-needed reform. The only two factions voting against the modified law were those composed of former associates of Viktor Yanukovich, the deposed former president.

## International Controversy

As the new legal formulation differed drastically from the one discussed with leaders of national minorities, its adoption caused unusually harsh criticism from many kin-states, of which Russia was far from the most vehement, a remarkable contrast with responses to Kyiv's earlier nationalizing moves.

Some of these states backed their rhetoric by demarches affecting bilateral relations. For instance, Romanian President Klaus Iohannis announced that he was canceling his September 2017 visit to Ukraine as a [way to send](#) a "very harsh diplomatic signal." The Hungarian government went even further and warned that it would block the progress of Ukraine's European and Euro-Atlantic integration until Kyiv reinstates the current scope of education in the group language for the Hungarian minority residing in the Transcarpathia region (as of early 2018, that area had 53 schools [attended](#) by 15,400 children using Hungarian). Prime Minister Viktor Orbán and his associates argued that the new Ukrainian law violated both minority rights standards set by the Council of Europe and Ukraine's EU Association Agreement commitments. They appealed to these two institutions to insist that the Ukrainian authorities abandon their transgressive move.

The Ukrainian government, and Poroshenko personally, had to choose between, on the one hand, threatening an important reform measure and provoking accusations of officials' indifference to the national language, and, on the other, undermining relations with neighboring states and impeding European integration. Their subsequent behavior demonstrated that they considered the domestic risks to be greater than the international repercussions. When signing the law, Poroshenko stressed its importance as a component of education reform and as a way to enhance the use of the national language. At the same time, he asked Education Minister Liliia Hrynevych and Foreign Minister Pavlo Klimkin to hold consultations with the country's European partners to reassure them of Ukraine's commitment to the protection of minority rights.

The consultations demonstrated that not all of the kin-states strongly opposed the planned transition to the new language regime, if only because the respective minorities did not all have existing schools with exclusive instruction in the minority language, thus the implementation of the new law would hardly reduce the use of their languages. For example, Ambassador Krasimir Minchev of Bulgaria [said](#) that the law "provides new opportunities for our children to have a good command of both Ukrainian and Bulgarian languages." Against this background, the staunch opposition of the Hungarian government appeared to be motivated not so much by its concern about the rights of coethnics in Ukraine as by Budapest's attempt to use it for domestic consumption in its competition for the electoral support of radical-leaning nationalists. The issue of Hungarian populations abroad has been [high on the agenda](#) of all governments in Budapest since the end of communist rule, but this particular instance of

assertiveness fit in with the ruling Fidesz Party's aspiration to retain its absolute majority in advance of the April 8, 2018, Hungarian parliamentary election.

Indeed, this explanation was confirmed by the Hungarian government's refusal to accept the recommendations of the Council of Europe's authoritative Venice Commission as guidelines for solving this political dispute. The Commission's [opinion](#), published in December 2017, sought to ensure the protection of minority rights while not undermining the Ukrainian government's effort to ensure knowledge of the state language. It did not criticize the transition to a mixed language regime as such but still suggested a greater role for minority languages, equal treatment of all such languages (that is, no discrimination against Russian), and a longer interim period.

In its response, Kyiv was careful to balance good relations with key foreign partners and its domestic reputation among supporters of the national language. It promised to follow the recommendations but assured the public that it would not compromise on provisions that enhanced Ukrainian. In contrast, Hungarian officials continued demanding that the law's language article be amended in consultation with minority groups, even as leaders of the Hungarian minority in Ukraine ignored the government's invitations to participate. Moreover, Orbán publicly admitted that his government's demands were not limited to the implementation of the recommendations of the Venice Commission but included a range of policies intended to ensure the far-reaching cultural autonomy of the Transcarpathian Hungarians. It viewed the above-mentioned annulment of the 2012 language law in February 2018 as further evidence of Kyiv's infringement on that autonomy. To demonstrate its seriousness, Budapest blocked several measures of Ukraine's cooperation with NATO, taking advantage of the alliance's consensual decisionmaking. Viewing the Ukrainian leadership as more vulnerable because of its dependence on Western support, Orbán is unlikely to abandon his persistent demands even though his party won an absolute majority of parliamentary seats in the April 2018 elections.

## **Conclusion**

The adoption of the new education law and its reception in Ukraine and abroad demonstrate a complex interplay between national and international politics. In supporting the promotion of the Ukrainian language in education, many deputies and officials were able to display to the public their concern about reform momentum, their preferences on national language usage, and their patriotic stance. While not fond of the nationalizing changes proposed by champions of the Ukrainian language, pragmatic policymakers oriented toward the pro-Euromaidan constituencies did not deem it expedient to reject it. Having to choose between the prospects of reputation damage in Ukraine and deteriorating relations with foreign partners, they considered the domestic risks to be greater than the international ones. Similarly, the Hungarian government's overblown response to the Ukrainian law had to do not only with the perceived

discrimination against coethnics across the border but also, or even primarily, with politics in Budapest. Such domestic political incentives facing both governments further complicate efforts to reconcile the goals of majority hegemony and minority autonomy.

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