

Ukraine

PARLIAMENT TO MULL RATIFICATION OF MINORITY-LANGUAGE
CHARTER.

Taras Kuzio

On 29 October, President Leonid Kuchma again submitted the 1992 European Charter for Regional or Minority Languages for ratification by the Ukrainian parliament. The manner in which the charter would be applicable would be important to Ukraine's largest minority, Russians, as well as to smaller ethnic groups, such as Romanians, Hungarians, Poles, Tatars, and Jews.

President Kuchma has backed ratification of 42 paragraphs of the charter, although only 35 are needed for it to be adopted. The 42 paragraphs contain provisions for protecting and promoting the linguistic and cultural rights of minorities in courts, as well as in cultural, educational, and state institutions.

Ukraine joined the Council of Europe in 1995 and promised to ratify the charter within 12 months. It was finally ratified by the parliament in December 1999, but the Constitutional Court declared its provisions unconstitutional. One constitutional clash concerned the question of which languages could be used by state officials.

One expert in attendance at a Council of Europe seminar held in Kyiv on 18-19 October tried to dissuade the fears of Ukrainian speakers that the charter would primarily promote Russian. According to that expert, Council of Europe officials claimed at the seminar "that the language charter is called to protect all languages. The bigger the ethnic group, the greater protection liabilities the state should assume to protect its language."

Nevertheless, opposition to the charter is again likely to come from national democrats who now possess the largest faction in the Verkhovna Rada: Viktor Yushchenko's Our Ukraine. Especially as the new presidential push to ratify the charter follows a move allegedly instigated by the head of the presidential administration, Viktor Medvedchuk, during the Council of Europe seminar to make Russian a state language. In addition, protests will inevitably be submitted to the Constitutional Court.

Although the Council of Europe seminar claimed that the Ukrainian language would also benefit from the charter, this is unlikely. The newly submitted charter for ratification by Kuchma only refers to non-Ukrainian ethnic groups, although Ukrainians are designated constitutionally as the "titular nation." Ukrainophones often feel that they have a minority status in eastern Ukraine and Crimea where their linguistic rights are ignored. The Council

of Europe and the Organization for Security and Cooperation in Europe do not apply national-minority and linguistic rights to the titular nation, assuming that it is the duty of the state to promote its own dominant ethnic group. This, of course, is true theoretically, but in the case of Ukraine and, to an even greater extent, Belarus, this is not always the case.

The charter also promotes the use of minority languages by state officials, whereas the Constitutional Court ruled in December 1999 that all state officials should use only Ukrainian. Official documents produced in Kyiv, including during elections by the Central Election Commission, are only in Ukrainian regardless of whether they are sent to Lviv or Crimea.

Ukraine is not alone in debating the role of the charter as the entire subject of national-minority and linguistic rights is highly charged both in the West and in the East. The Council of Europe and the OSCE have de facto adopted the widely shared assumption that Western, "civic" states are consolidated, mature democracies and do not require active intervention in minority and ethnic problems.

The opposite is held to be true of the East, which is assumed to be less democratically advanced and more prone to ethnic discrimination and conflict. The EU has only demanded that postcommunist states that desire EU membership uphold good minority policies, a demand not made to Western European states that were invited to join earlier. The OSCE has only intervened in ethnic conflicts in postcommunist states, despite the fact there exist more and longer-running conflicts in the West. The United Kingdom, Spain,

and Turkey have refused to sanction intervention by the OSCE because they have defined their ethnic conflicts as "terrorism."

Three other problems have rested on the question of how to define "national minorities" and whether migrants and linguistic groups also have rights. No common definition of "national minorities" exists in Europe among states or the OSCE, and each state has been left to its own devices either to define them or to deny their existence. The legislation of some states, such as the United States, France, Germany, the United Kingdom, Spain, Turkey, and Greece, denies that national minorities exist and prefers to support only civic rights provided to individuals, rather than collective rights to ethnic groups.

Most states deny that migrants, especially economic ones, should be able to claim state assistance to protect their cultures. Russia has defended the rights of Russian-speaking "compatriots" in the former Soviet Union, not Russians, although linguistic groups are not traditionally afforded protection as a group.

Ukraine is therefore not alone in having reservations about the Charter for Regional or Minority Languages. As of July 2001, only 15 states had ratified the charter. France refused to ratify it because it contradicted its constitution, which provides rights to individuals, regardless of ethnicity, language, or religion. Belgium, Greece, Ireland, Portugal, and Turkey had not even signed the charter while other Western European states ratified it with heavy revisions.

Most states have opposed any concept of collective rights, such as separate ethnic universities (which Albanians have demanded in Macedonia) and have allocated quotas in parliaments. They have also demanded that all citizens should learn the official (state) language. Some have opposed granting provisions to nonterritorial languages, such as Roma, and some states have insisted that they have a right to define to which languages the charter applies.

Most states have adopted a compromise policy of integration, in contrast to the provision of collective rights through multiculturalism (as in Canada) or full-blown assimilation, which was the most commonly held policy prior to the 1960s.

The dividing line between "integration" and moderate "assimilation" is, however, hazy. Moderate assimilation "is opposed not to difference but to segregation, ghettoization, and marginalization," the well-known U.S. scholar Rogers Brubaker concludes in the July 2001 issue of "Ethnic and Racial Studies." Integration of minorities into mainstream society, while providing for their rights, has always been the policy implemented by Ukraine.

(This report was written by Taras Kuzio, a resident fellow at the Centre for Russian and East European Studies and adjunct staff in the Department of Political Science, University of Toronto.)