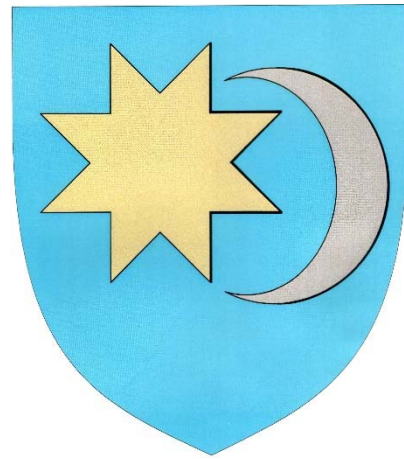




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Erdélyi Magyar Nemzeti Tanács  
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Shadow Report to the Second Periodical Report Presented to the  
Secretary General of the Council of Europe on the  
Implementation of the European Charter for Regional or Minority  
Languages in Romania  
- **executive summary** -

**Cluj Napoca / Kolozsvár**

**June 2016**

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This report was initiated by the Hungarian National Council of Transylvania (HNCT) and is the result of the joint collaboration of HNCT and the Szekler National Council (SZNC), two civic organizations in Romania.

The main objective of the Hungarian National Council of Transylvania (HNCT) is to contribute to the fulfilment of the Transylvanian-Hungarian community's endeavors, to defend the rights and interests of the Hungarian community in Romania, to consolidate civil society, democracy, rule of law and political pluralism in the country, and to support the economic, social, cultural and institutional development of the region.

The Szekler National Council is a civil society based regional movement created to defend and lobby for the rights of the Szeklers, a Hungarian speaking regional community in Romania, which inhabits the Szeklerland – Harghita, Covasna and a part of Mureş counties –, forming a majority of 75% in this region. An important objective of the Council is to promote the rights granted by some documents of the Council of Europe ratified by Romania: the *European Charter for Local Self-government* (ratified by Law 33/1995), the *Framework Convention for the Protection of National Minorities* (ratified by Law 199/1997) and the *European Charter for Regional or Minority Languages* (ratified by law 282/2007), but also by other CE documents, such as *Recommendation 1201* (1993).

The shadow report was written by a group of experts in minority rights and public services and it is based on the following data: a nation-wide survey on the usage of minority languages in public administration conducted between June 2014 and February 2015, a survey of public administration institutions conducted in Harghita county in 2015, and several case studies related to the implementation of the Language Charter.

## Remarks and recommendations related to Article 9 of the Language Charter

The second periodical report does not provide concrete data on how the provisions of Article 9 of the Language Charter are implemented in the Romanian Judiciary system. Most of the presented data are vague or deficient. In other cases data is substituted with some particular examples. As a result of insufficient and inadequate data collection we consider that ***there is no possibility to evaluate the fulfillment of the provisions of Article 9*** ratified in Romania, and we would kindly ask the committee of experts to consider these provisions ***not fulfilled***.

Also, as our legal analysis shows, the usage of minority language documents and evidence is blocked, as according to the law, ***documents and evidence produced in a minority language are not accepted in court, only if certified translation is annexed, which needs to be supported in every case by the claimant***. Also, as our comments on the Second Periodical and examples showed, the oral usage of minority language is discouraged as Courts do not present the minority language speakers the possibility to speak on their own language. Moreover, there are ***no clear guidelines and resolution*** that courts could use in cases when someone turns in a minority language to them.

In light of the above mentioned conclusions we would kindly ask the Committee of Experts to recommend Romania the following:

- Romania ***should change the problematic paragraphs of the legislation*** (Article 150 Paragraph 4 and Article 225, Paragraph 1 of the Code of Civil Procedures) and should bring it in line with the provisions of Article 9 of the Language Charter. The state should introduce legal provisions that releases the citizens from the translation cost of documents written in a minority language presented as evidence.

- Romania ***should encourage the usage of minority languages in court and deliver clear guidelines on this matter both to Courts and citizens.***

## Remarks and recommendations related to Article 10 of the Charter

As our monitoring process underlines, the provisions of the Romanian legislation and of Article 10 of the Language Charter ***are met only sporadically***, there is no ***systematic implementation strategy or methodology of language rights in Romania.***

1. We presented several case studies, which show, ***when a municipality choses to implement these rights it can do it only in an ad hoc manner, with lots of informal solutions involved and without any financial support from the central state.*** There are no regional or national guidelines to turn to and there are no information provided by state authorities for the personal of mayor's offices on this topic.

2. Many of the employees and mayors are not aware of the provisions of the law, and because of this they are reluctant or even hostile when faced with applications written or demands formulated in a minority language. Also, as some of the respondents of the monitoring process formulated, ***the Romanian state does not provide any support in acquiring the Hungarian legal and administrative language, nor support for an administrative terminology that can be used in different offices.***

3. Also, we presented a case study from Harghita/Hargita County, which shows that the situation is similar in the case of the local branches of the public service institutions as well. Many of the institutions do not apply the provisions of the law regarding language usage, and ***despite the fact that the overwhelming majority of the people who turn to them are Hungarian speakers, they refuse to communicate in Hungarian with them.***

4. As for a possible structured approach on the problem of language usages, several problems rise:

- First, ***it is not clear where the limits of minority language usage are***, institutions are left to decide the issue on their own, and in the end the citizens are discouraged from using their minority language and they are enduring negative consequences.
- Second, as there is no officially accepted Hungarian terminology on administrative concepts, the issue is ***left at the ad-hoc interpretation of state institutions and in many cases it has negative effects***, mayor's offices being forced to remove bilingual inscriptions. Also, as pointed out, the pattern shows that Courts tend to rule against those, who implement provisions on minority language usage.
- Third, in many cases institutions who need to supervise the implementation process are ***using double standard in handling the cases***, being more indulgent in cases when the provisions of the law regarding minority language usage are not met and being more vigilant when language policies regarding Romanian language are violated.

We can conclude that the recommendations of the Committee of Experts for a ***structured approach*** in the implementation of the provisions of the law regarding minority language usage ***were not met*** in Romania, and its absence explains most of the misunderstandings and misinterpretations regarding minority language usage, and lack of implementation chosen by a large majority of local councils, mayor's offices and public service institutions.

In light of the findings presented above, ***we invite the Committee of Experts:***

- to **remind** the State Party that Article 10, Paragraph 1 (a) ii requires authorities to **ensure** (and not merely allow or tolerate) that their employees which are in contact with the public use the minority language. Article 10 entails legal and practical measures, such as a structured human resources policy, incentives etc. to make sure that minority languages can be used in relations with the authorities.
- to **urge** Romanian authorities to take necessary measures to fulfill their undertakings under the Language Charter, wherever there is a sufficient number of speakers for the purpose of undertakings under Article 10 of the Language Charter, irrespective of any thresholds.
- to **invite** the State Party to ensure that prefects should not hinder the use of Hungarian language, but rather they should take proactive steps to encourage the use of minority languages in the spirit of the Language Charter.

Furthermore, ***we would like to ask the Committee of Experts and the Committee of Ministers of the Council of Europe to recommend to Romania the implementation of a structured approach regarding the Language Charter, with the following key elements:***

1. national and regional strategy of implementation that would regulate the usage of Hungarian language on every level of the administration
2. the acceptance of Hungarian terminology on administrative concepts, in cooperation with the minorities
3. clear procedural norms of application and an active involvement of the prefect's offices in supervising the implementation on local level, and in cases sanctioning when the implementation is not met
4. publicly accepted and released time-frame of implementation with clear deadlines and obligations
5. state financed budgetary funds for public service institutions, county councils and mayor's offices for the implementation of the provisions of Article 10 of the Language Charter and the provisions of the law regarding minority language usage