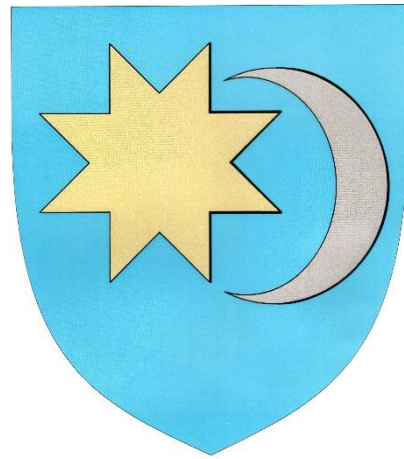




Hungarian National Council of Transylvania
Erdélyi Magyar Nemzeti Tanács
Consiliul Național Maghiar din Transilvania



Szekler National Council
Székely Nemzeti Tanács
Consiliul Național Secuiesc

**Shadow Report to the Forth Report Presented to the Secretary
General of the Council of Europe on the Implementation of the
Framework Convention for the Protection of National Minorities
in Romania**

Cluj Napoca / Kolozsvár

December 2016

HNCT address: 400165, Cluj Napoca/Kolozsvár, Suceava street, nr. 17, Romania

Telephone: +40 264 333461, E-mail: emnt@emnt.org

SzNC address: 520009, Sfântu Gheorghe/Sepsiszentgyörgy, Konsza Samu street, nr. 21, Romania

Telephone: +40 267 318180, E-mail: office@sznt.ro

Contents

1. Introduction	3
1.1. Introduction of the Hungarian National Council of Transylvania (HNCT)	3
1.2. Introduction of the Szekler National Council	4
1.3. Information on the Shadow Report.....	4
1.4. Acknowledgments	5
2. Brief presentation of the Hungarian community in Romania	6
2.1. The presentation of the Hungarian community.....	6
2.2. The political representation of Hungarians in Romania.....	7
3. General comments on the Second Periodical Report submitted by Romania.....	9
4. Detailed article by article comments on the implementation of the FCPNM.....	14
Article 5.....	14
The use of the Szekler flag.....	15
Singing the Hungarian anthem	17
Article 7.....	18
Article 10.....	22
General comments on the Forth State Report submitted by Romania regarding Article 10.....	22
Legal background and the Romanian administrative system	23
Monitoring Project on the implementation of minority language usage in Romania	26
Recommendations.....	31
Article 12.....	32
Access to textbooks	32
Equal access to education at all levels for persons belonging to national minorities.....	35
Exams and competitions in minority languages.....	37
Conclusion and recommendation	38
Article 14.....	38
The Romanian education system and minority education.....	38
Systemic problems of the minority education in Romania	40
Conclusions and recommendations	48
Article 15.....	48
Article 16.....	50
Facts and contextual elements regarding the territorial reform in Romania. Hungarian minority reasons for change.....	51
Concerns about the lack of dialogue between government officials and the Hungarian representatives regard the Szeklerland as a region	55

Conclusions and recommendations	57
5. Concluding remarks	58

1. Introduction

Romania signed the Framework Convention for the Protection of National Minorities on February 1, 1995, and ratified it in the same year by Law 33/1995. The Framework Convention ensures a series of rights for national minorities such as free choice of identity, protection against discrimination and hate speech, the preservation of the culture of national minorities, freedom of association, the usage of the minority language in the public and private life, access to media, public and private education in minority languages, participation of persons belonging to national minorities to public affairs, and so on.

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

1.1. Introduction of the Hungarian National Council of Transylvania (HNCT)

The main objective of the Hungarian National Council of Transylvania (HNCT) is 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 Council incorporates 19 territorial organizations covering the entire Transylvanian area, and operates a network of 33 offices. Except for the central office situated in Cluj, these serve the needs of 32 micro-regions and function under the name: *HNCT Centers of Democracy*. From a legal point of view, the network's operation is ensured by an independent NGO, an association called Asociația „EMNT Egyesület”.

The activity of the centers are supervised by the Presidium and the regional representative bodies of the Hungarian National Council of Transylvania. Together, these 33 Centers of Democracy form a non-governmental organization based on the work of numerous volunteers. This organization operates as a network and pursues communitarian and societal goals, centered mainly on the provision of services and the protection of citizens' rights. The network also constitutes the permanent organizational infrastructure necessary for the Hungarian National Council of Transylvania to achieve its goals. The centers perform an activity similar to a public service, pursue the common good by assuming the obligation of protecting citizens' rights and interests, ensuring their equality of chances and the promotion of their interests, while catering to the needs of individuals and groups belonging to the Hungarian community in Transylvania.

The HNCT implements several important programs and organizes various activities. More precisely, the representatives of earlier mentioned territorial organizations organize event in order to mobilize the local community. The activity-types are the following:

1. Assistance offered in terms of preparing, managing and verifying various programs operated by Hungarian public foundations.
2. Monitoring of local governments (monitoring and publishing the main resolutions made by local and county governments, generating public debates).
3. Maintaining of permanent relationships with educational, scientific and cultural institutions as well as political and non-governmental organizations.
4. Establishing links between professional organizations and forums, organizing inter-regional meetings.
5. Monitoring of various tenders (organized by the European Union, the Hungarian government and/or Romanian contracting authorities); counseling and fostering relationships with firms specialized in writing applications.

6. Connecting ethnic Hungarian communities, and creating a network, which encompasses the entire Carpathian Basin.
7. Organizing cultural and scientific events.

1.2. Introduction of the Szekler National Council

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/Hargita, Covasna/Kovászna and a part of Mureş/Maros counties –, forming a majority of 71% 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*, the *Framework Convention for the Protection of National Minorities* and the *European Charter for Regional or Minority Languages*, but also by other CE documents, such as *Recommendation 1201* (1993).

The Council was formed in 2003, and has civil activists and members in each and every settlement from the historically and culturally defined region of Szeklerland, all of whom were elected through special ballots organized by local civilians on a communal basis. Its territorial organization is based on the traditional territorial structure of Szeklerland, it has organizations in all the eight “seats” (székek in Hungarian), the peculiar unitary micro regions with specific traditions, preserved since the middle age.

The Council adopted its fundamental document in 2004, a draft law on the Autonomy Statute of Szeklerland,¹ with a special emphasis on language rights, crucial for preserving the identity of the Szekler-Hungarians living in the region. The draft law was submitted twice to the Parliament by a group of MP's representing the Democratic Alliance of the Hungarians in Romania. It was rejected without any debate both times.

Since 2008, the Council is in contact with different representatives and bodies of the Council of Europe, its delegation was received in 2008 by the President of the Parliamentary Assembly of the Council of Europe. The organization's activity related to CoE is focused on supplying information about the everyday realities in Romania, with a special focus on how minority rights are respected. Doing so, the members of the organization are convinced that they can contribute to the improvement of the quality of democracy and the implementation of minority and language rights in Romania. Also they are confident that this can be done only through dialogue and are committed to do the best in this respect.

1.3. Information on the Shadow Report

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, case studies on education, freedom of association, territorial reform and other issues related to the implementation of the Framework Convention for the Protection of Minority Rights (hereinafter, FCPNM). Also, it refers to the previous report of the Advisory Committee and the Forth Report submitted by Romania.

¹ The English version of the draft law can be accessed on the following website:
http://sznt.sic.hu/en/index.php?option=com_content&view=article&id=15:the-autonomy-statute-of-szeklerland&catid=10:statutum&Itemid=14

As a general consideration we note, that in this shadow report we refer not only to the period covered by the state report (2010-2013), but also to the next few years. The explanation of this decision is two folded. On the one hand, Romania submitted its Forth Report late, but in the text of the report it makes references only to the original period. We consider that in order to understand the dynamics of the implementation process recent examples need to be taken into account. On the other hand, we consider that several actions and events took place in the last few years, which made the situation of minority rights worse. Concrete cases, problems will be detailed in the chapters that are referring to different articles of the FCPNM.

The structure of the Shadow Report is the following.

- First, we will briefly present Hungarian minority
- Second, we will present some general remarks on the Forth Report submitted by Romania in 2016
- Last, we analyze the implementation of FCPNM article by article.

Last, but not least, we would like to underline that with our report we do not intend to formulate a negative critique of the Romanian state and public authorities. With the help of our comments, research, analysis and monitoring project we would like to contribute to strengthen the efficient implementation of the FCPNM. Also, we intend to help the experts of the Council of Europe to have comprehensive, precise and detailed information about the actual stage of the implementation of the Framework Convention in Romania and by this to contribute to the efficiency of this process in the future.

1.4. Acknowledgments

The Report is the collective work of a small group of experts in minority rights and public administration, who received the full support of the two organizations. We are very grateful for the help and support of those who contributed to the successful finalization of the present Report.

The leader of the working group was **Tibor TORÓ**, political scientist, lecturer at the European Studies Department of the Sapientia University (torotibor@sapientia.ro). He was supported by **Attila DABIS**, political scientist, PhD student at the International Relations Doctoral School of the Corvinus University of Budapest (dabis.attila@gmail.com), and **Miklós BAKK**, political scientist, associate professor at the European Studies Department of the Sapientia University (bakkmiklos@gmail.com). The text was critically reviewed by Attila Dabis.

We would like to thank the contribution of István SÓLYOM (political scientist and journalist) and Kinga TÓTH (volunteer) who worked in gathering and analyzing data on minority language usage in Administrative Authorities, and to Zsolt ÁRUS (civil activist) for his insights and comments on several aspects of the text.

2. Brief presentation of the Hungarian community in Romania

2.1. The presentation of the Hungarian community

The Hungarian community is the largest minority community in Romania, counting more than 1.2 million persons, representing 6.5% of the population (6.1% according to the corrected data of the census). The number and percentage of Hungarians is continuously dropping since 1977.

Figure 2.1: The change in number and percentage of Hungarian population in Romania according to Census data in the 1930-2011 period

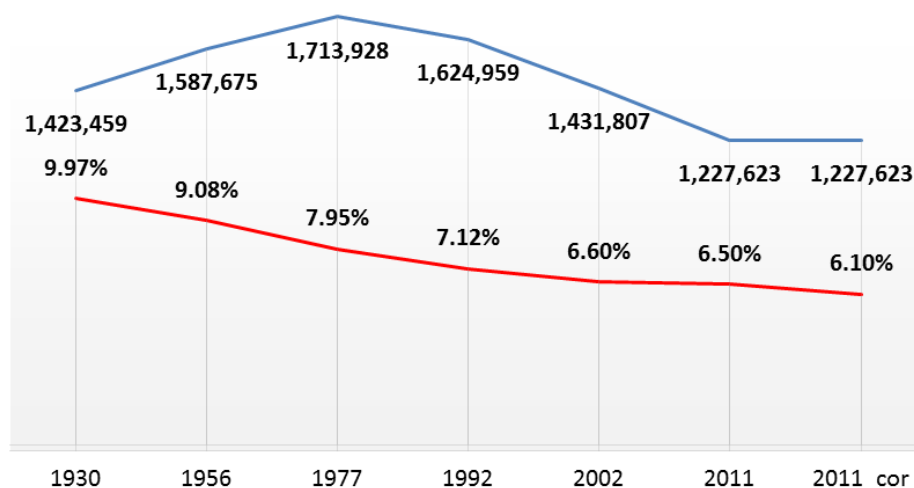


Table 2.1: The number and percentage of Hungarian population by county according to the 2011 Census data

County	County Hungarian name	Total population	Hungarians	%
Alba	Fehér	342 376	14 849	4.34%
Arad	Arad	430 629	36 568	8.49%
Bacău	Bákó	616 168	4 208	0.68%
Bihor	Bihar	575 398	138 213	24.02%
Bistrița-Năsăud	Beszterce-Naszód	286 225	14 350	5.01%
Brașov	Brassó	549 217	39 661	7.22%
Caraș-Severin	Krassó-Szörény	295 579	2 938	0.99%
Cluj	Kolozs	691 106	103 591	14.99%
Covasna	Kovászna	210 177	150 468	71.59%
Harghita	Hargita	310 867	257 707	82.90%
Hunedoara	Hunyad	418 565	15 900	3.80%
Maramureș	Máramaros	478 659	32 618	6.81%
Mureș	Maros	550 846	200 858	36.46%
Sălaj	Szilágy	224 384	50 177	22.36%
Satu Mare	Szatmár	344 360	112 580	32.69%
Sibiu	Szeben	397 322	10 893	2.74%
Timiș	Temes	683 540	35 295	5.16%
București	Bukarest	1 883 425	3 359	0.18%

The most compact area of Hungarians is the Szeklerland (Harghita/Hargita and Covasna/Kovászna counties), where more than 70 percent of the population is Hungarian and most of the local administrative-territorial units have a Hungarian majority. Beyond this, large a number of Hungarians live in Mureş/Maros, Bihor/Bihar, Satu Mare/Szatmár, Sălaj/Szilágy and Cluj/Kolozs counties. Despite the fact that in Cluj/Kolozs county there are more than 100 thousand inhabitants, who declared themselves Hungarian, the Hungarian population does not reach the 20% threshold required by the law. In the rest of the counties Hungarians represent a relatively small minority.

2.2. The political representation of Hungarians in Romania

From political perspective the Hungarian community is represented by three parties, the Democratic Alliance of Hungarians from Romania (in Romanian: Uniunea Democrată Maghiară din România / in Hungarian: Romániai Magyar Demokrata Szövetség – furthermore: DAHR), the Hungarian People's Party of Transylvania (in Romanian: Partidul Popular Maghiar din Transilvania / in Hungarian: Erdélyi Magyar Néppárt – HPPT) and the Hungarian Civic Party (in Romanian: Partidul Civic Maghiar / in Hungarian: Magyar Polgári Párt -- HCP).

The strongest party of the three is DAHR, which is present on every level of decision-making in Romania. The Alliance has parliamentary representation since 1990 and in the 1996-2016 period was member of the government coalition, or supported the government from parliament on several accounts (1996-2000, 2000-2004, 2004-2008, 2009-2012). As part of the governmental coalition DAHR politicians held several ministerial state secretary and deputy state secretary positions, and received the leadership of several national, regional or county level public service institutions.

The second Hungarian party is HCP, which was founded in 2008 in order to assure pluralism and democracy for Hungarians in Romania. At the 2008 local elections the party managed to win mayors' and local council seats in important municipalities in the Szeklerland, but never managed to become a strong actor outside the borders of Szeklerland. In 2016, the party signed a cooperation agreement with DAHR, and participates on the latter's lists at the 2016 parliamentary elections.

The third Hungarian party, HPPT was founded in 2011, with the aim „to establish an own, autonomous parliament and government for Transylvania within Romania“ and to achieve autonomy for the Szeklerland.² The party had a moderate success, according to public support it became the second most popular party among Hungarians in Romania, but did not achieve to win any important mayor's seats in the past elections.

According to the 2016 electoral results (see Table 2.2) the support of DAHR did not change relative to other electoral years³, it won 195 mayor's offices, and several deputy mayor's offices. It has in total 2284 local councilors, being present in most of the local councils where a considerable number of Hungarians live. The representatives of DAHR are present in the county councils of Arad/Arad, Bihor/Bihar, Braşov/Brassó, Cluj/Kolozs, Maramureş/Máramaros and Sălaj/Szilágy counties, have absolute majority in the county councils of Harghita/Hargita and Covasna/Kovászna County, and relative majority in the county councils of Satu Mare/Szatmár and Mureş/Maros counties. As a consequence of these electoral results DAHR controls a large number of subordinated local public institutions as well.

² See: Cultural autonomy and territorial federalism: two voting options for Hungarians in Transylvania. Nationalia, 13.11.2012. <http://www.nationalia.info/new/9672/cultural-autonomy-and-territorial-federalism-two-voting-options-for-hungarians-in-transylv>, accessed: 2016.10.31.

³ The results of previous local elections can be looked up at the web page of the Permanent Electoral Authority: <http://alegeri.roaep.ro/>

Table 2.2: Electoral results at the 2016 local elections of the three parties

		2016		
		Nr. of votes received	%	Nr. of mandates
County council	Total valid votes	8 256 611		
	DAHR	411 823	4.99%	95
	HPPT	38 215	0.46%	6
	HCP	16 824	0.20%	6
Local council	Total valid votes	8 369 531		
	DAHR	390 321	4.66%	2 284
	HPPT	35 019	0.41%	207
	HCP	18 993	0.22%	158
	HPPT – HCP coalition	9 788	0.11%	33
Mayors	Total valid votes	8 525 136		
	DAHR	315 236	3.69%	195
	HPPT	21 171	0.24%	0
	HCP	19 355	0.23%	13
	HPPT – HCP coalition	7 884	0.09%	2

As the table above shows that in a large number of municipalities local public authorities are controlled by DAHR. Furthermore, as it is the only Hungarian party with parliamentary representation it can influence decisively both the legislative and executive processes regarding the rights of national minorities.

3. General comments on the Second Periodical Report submitted by Romania

1.

As pointed out in the introduction, Romania submitted its Forth Report (furthermore: Report) in 2016, however the period it refers to is the interval of 2010-2013 (p. 4). This has several negative consequences. On one hand, the Report or its Annexes **does not include examples and processes which occurred after 2013**, and it is not clear whether this period will be dealt with in a following Periodical Report or won't be discussed at all. Both options are problematic: the possibility of a further delay, could lead to a further gap between the reporting period and the submission date, while leaving out a period from a report could result in a biased picture of the situation. On other hand, from the perspectives of the shadow reports and the monitoring committee it is hard to make comments on issues from a specific period of report (2010-2013), which could have already changed in the years that passed. In both cases, the whole monitoring process could be jeopardized.

Therefore, as we pointed out earlier, because of recent changes, many of our examples and case studies are from the post-2013 period, where in our opinion a number of the minority rights were curtailed on several accounts. Also, we would **kindly invite the Committee of Experts to address this issue in its report, and analyze the full 2010-2016 period.**

2.

There are several inconsistencies throughout the text of the Report that are not in accordance with the legal framework in force in 2016. For example, when describing the parliamentary representation of minorities, the State Reports states the following:

"The Romanian electoral system was reformed in 2008. Law no. 35/2008 established the shift from the proportional vote to a mixed voting system that combines the uninominal vote and the proportional vote." (p. 47)

Law 35/2008 is not in force anymore, since a new Electoral Law (no. 208/2015) was adopted in 2015, which changes back the electoral system to the pre-2008 format, according to which MP's will be elected in a party-list proportional representation system.⁴

Even though that this very serious modification of the electoral law happened outside the reporting period, this type of important modifications should have been mentioned in the report.

3.

One of the main critiques toward Romania formulated by the Council of Europe both in the Opinion of the Advisory Committee, as well as in the Resolution of the Committee of Ministers CMN(2013)7⁵ was related to the lack of legislation on national minorities.⁶ Despite this recommendation, Romania is yet to clarify its state policy towards minorities. This issue was raised even in the Forth State Report: "The legislative process on

⁴ More information on the new electoral law see: Mihai Pelin and Ana-Maria Popescu: New Election Law in Romania. Radio România Internațional, 2015.07.21 (http://www.rri.ro/en_gb/new_election_law_in_romania-2534281)

⁵ see: Resolution CM/ResCMN(2013)7 on the implementation of the Framework Convention for the Protection of National Minorities by Romania (https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c69a0)

⁶ see page 3 of the Third Opinion on Romania of the Advisory Committee on the Convention.

the Romanian Draft Law on the Status of National Minorities is still underway within the Chamber of Deputies” (p. 11).

In addition, even this statement can be nuanced on several accounts. First, the process on the Draft Law on the Status of National Minorities (Draft Law 502/2005) is being discussed in Parliament since 2005,⁷ becoming the **longest debated draft law in the history of post-communist Romania**. Second, the Draft Law was **debated already in seven Parliamentary Committees**, which is also unprecedented for Romania, as most legal documents are debated in two or three committees. Third, as the official web page of the parliament shows (Annex 1) the Draft Law is **not on the parliamentary agenda since 2012**, when it was sent back to the Committee for Human Rights, Cults and National Minorities for further analysis.

Having said this one can clearly conclude that there is no political will in Romania to adopt the Law on the Status of National Minorities, nor to clarify state policy towards minorities. Therefore, the resolution of the appeal formulated by the Advisory Committee in 2012 **was not fulfilled**.

4.

Both the Third Opinion of the Advisory Committee, Resolution CMN(2013)7 of the Committee of Ministers and the Forth State Report submitted by Romania has a positive view on the financial support of minority organizations from the state budget, which according to the State Report continued despite the economic difficulties encountered by Romania in the previous years.⁸ In this matter we would **like to respectfully draw the attention** of the Advisory Committee to the following facts. As a series of articles,⁹ written by investigative journalists show there are several problems and irregularities how the financial support provided to the Hungarian community is spent by the Democratic Alliance of Hungarians in Romania, the organization that receives these funds. Furthermore, as we will point out in the next paragraphs, this is not specific Hungarian problem, but a general systematic one.

DAHR receives around 5 million Euros on a yearly bases, which should spend on programs, events of the Hungarian community. This is regularized by Government Ordinance 396/2009, which in its Annex states the following:

“The Democratic Alliance of Hungarians in Romania is the beneficiary of the funds allocated for the Hungarian minority in Romania from the state budget, and manages it starting from March 2009.”

Also, as the article points out these financial resources cannot be spent arbitrarily, a contract signed by the beneficiary organization and the Department for Interethnic Relations prescribes that the funds can be spent on the following: organizational costs, maintenance of property, wages, press and publishing, organizing

⁷ see the legislative process (Annex 1), which was listed from the official webpage of the parliament: http://www.cdep.ro/pls/proiecte/upl_pck.proiect?idp=6778

⁸ See Paragraph 18 of the Third Opinion on Romania of the Advisory Committee on the Convention and page 6 of the Forth State Report.

⁹ See the article *Mire költik az erdélyi magyarság pénzét? Publikáljuk az RMDSZ beszámolót* (<https://erdely.atlatszo.hu/2016/04/28/mire-koltik-az-erdelyi-magyarsag-penzet-publikaljuk-az-rmdsz-beszamoloit/>), published by Átlátszó Erdély, a Hungarian language independent investigating journalism website in Romania. Shorter English version of the article can be accessed on the following link: <https://erdely.atlatszo.hu/2016/10/24/where-does-the-money-allocated-to-the-hungarian-community-living-in-transylvania-go/>

cultural events, acquisition of movable and immovable property, and own resources for EU-tenders and projects.

Although a straightforward system, the investigative article found several irregularities, which highlight the systemic problems regarding the financial support of national minorities. First, the **reporting system is very vague and it is not transparent**. The organizations do not have to report and prove thoroughly how they spent the money, they need to submit only an A4 page form, with some annexes, containing mostly an enumeration of costs, events and activities. Second, more importantly, as the article points out **only around 20% of the received funds are spent on financing cultural programs organized by Hungarian minority NGOs and organization**, the rest are spent by the organization itself mostly on 1) own programs and activities which are not specified (45-62%), 2) wages (14-28%), 3) acquisition and maintenance of movable and immovable property (8-14%). As DAHR is a political organization as well, having representatives at all levels of the administration, it is not guaranteed that these funds are spent only on cultural activities and not political ones.

It is important to mention that these funds are not allocated to the national minorities, but to their representative organizations that are members of the Council of National Minorities. These are not cultural organizations, but political ones as they have representatives in the Parliament as well. The problem is that by offering financial support only to those represented in that Council, the Government excludes other cultural organizations of the given minority. Also, because the Government decide which organizations are members of the Council, it has a decisive influence where the money flows and how the problems related to minorities are reflected in the public discourse and also provides a monopoly situation to these organizations, given that each minority is represented by one organization. This can lead to the situation, that – even if this is not intention of the Government – the organizations receiving the tax payers' money, start considering that they should be less critical towards the Government, to be more reserved when it comes to stand up for minority rights.

In conclusion, the financial support and the received budgetary amounts received by minority organizations is a positive development, but the **distribution and the lack of transparency in how these amounts are spent** is problematic. Also, as most of the amounts are spent by the organizations with Parliamentary representation, smaller minority NGOs and cultural organizations receive only a small percentage of these amounts. Therefore, we would kindly ask the Advisory Committee **to recommend Romania to pay special attention on how these funds are being spent, make its financial support system for national minorities more transparent and open to organizations which have only cultural activities**.

5.

In the case of Article 3 of the FCPNM Romanian received two recommendations from the Advisory Committee, both of which were related to respecting the self-identification of minorities in the case of data collection and the process of census data.¹⁰ As a response to these recommendations the Forth Report submitted by Romania underlines that they “included open questions regarding ethnic affiliation and mother tongue” (p. 16) and presents a correction mechanism to the census data obtained from the classic all-inclusive population head count, through which the data was corrected “based on the data of population registers”. In their opinion “this correction was considered necessary because many families could not be contacted at the moment of the census, as they were living abroad.” Also, as the Report points out that “in such cases, extracted from population registers, accounting for 6.1% out of total population of 20.1 million,

¹⁰ see Paragraph 50 and 51 of the Third Opinion on Romania of the Advisory Committee on the Convention.

no data on ethnic affiliation and mother tongue was registered. The data on mother tongue and ethnicity included in the present report refers exclusively to those questioned directly during the census. When interpreting data and analysis presented herein the above mentioned methodological aspect should be considered.” (p. 16).

This correction is problematic because in most of the official documents that work with data on ethnic identity or mother tongue – even the official results of the Census¹¹ – this differentiation is not mentioned. The people introduced on the list after the Census appear as resident citizens without information on ethnicity. In other words the introduction of citizens, without any data on ethnicity or mother tongue allows state authorities to alter the 20% threshold in several settlements, which is needed for minority language rights to be implemented. Although according to Article 131 of Law 215/2001 if the share of a given minority population falls below the threshold of 20%, the provisions of the law remain in effect, in reality this is not the case. In the 2002–2011 period there were 15 settlements in which the percentage of Hungarians dropped under 20% (see Table 3.1), and none of these settlements translate their official documents, or issue forms or widely used administrative texts in Hungarian.

Table 3.1: The list of settlements where the percentage of Hungarians dropped under 20% between 2002 and 2011

County	Settlement name		2002	%	2011	%
	Romanian	Hungarian				
Alba/Fehér	Rădești	Tompaháza	292	20.9%	225	19.3%
Arad/Arad	Chișineu-Criș	Kisjenő	2006	24.0%	1464	19.3%
Bihar/Bihar	Oșorhei	Fugyivásárhely	1330	22.6%	1170	18.7%
Bistrița-Năsăud/Beszterce-Naszód	Reteag	Retteg	733	20.2%	576	17.4%
Brașov/Brassó	Budila	Bodola	801	23.0%	679	16.5%
Brașov/Brassó	Rupea	Kőhalom	1245	21.6%	977	19.5%
Cluj/Kolozs	Chinteni	Kajántó	559	20.1%	543	18.6%
Cluj/Kolozs	Cătina	Katona	459	20.8%	347	17.7%
Cluj/Kolozs	Cojocna	Kolozs	887	20.3%	700	17.9%
Cluj/Kolozs	Florești	Szászfenes	2057	27.5%	3299	15.1%
Maramureș/Máramaros	Baia Sprie	Felsőbánya	3441	20.7%	2593	17.3%
Satu Mare/Szatmár	Ardud	Erdőd	1304	20.1%	1098	18.6%
Timiș/Temes	Giera	Gyér	276	20.9%	213	17.7%
Timiș/Temes	Dumbrăvița	Újszentes	1054	39.1%	1058	14.6%
Timiș/Temes	Uivar	Újvár	567	20.9%	401	17.0%

source: Kiss Tamás - Barna Gergő: Népszámlálás 2011. Erdélyi magyar népesedés a XXI. század első évtizedében. Demográfiai és statisztikai elemzés. ISPMN Working Papers, 2012 (http://www.ispmn.gov.ro/uploads/ISPMN_WP_43-19-04%20BT.pdf)

Another relevant example that demonstrates the problematic case of the threshold comes from the city of Cluj/Kolozsvár, a city with more than 300 thousand inhabitants, and the center of Cluj/Kolozs county, home to around 50 thousand Hungarian speakers. Although when Law 215/2001 was adopted, the percentage of Hungarians was above the 20% threshold,¹² the mayor refuses to place the bilingual place-signs to the

¹¹ see for example Table 8. Resident population by ethnicity - counties, cities, towns, communes downloaded from the official webpage of the Census (http://www.recensamantromania.ro/wp-content/uploads/2013/07/sR_Tab_8.xls)

¹² Table 3.2: The number and percentage of Hungarians in Cluj-Napoca/Kolozsvár between 1992-2011

	1992	2002	2011
Total population	328 602	317 953	324 576
Hungarians	74 871 (22.8%)	60 287 (19%)	49 565 (15.3%)

Source: Varga E. Árpád: Erdély etnikai és felekezeti statisztikája. Népszámlálási adatok 1850-2002 között (<http://www.kia.hu/konyvtar/erdely/erd2002.htm>), respectively Resident population by ethnicity - counties, cities, towns, communes downloaded from the official webpage of the Census (http://www.recensamantromania.ro/wp-content/uploads/2013/07/sR_Tab_8.xls)

entrances of the city. Law 215/2001 does not prohibit the use of minority language in case the threshold is not met, the local authority is actually in a position to prescribe the official use of a minority language. The mayor's office consistently denies this right for Hungarian speakers, despite the fact that they are historically present in the town and there is a sufficient demand for the use of the minority language. ***We would like to point out that the situation in Cluj/Kolozsvár is an intentional misuse of the 20 % language threshold, which was originally not meant to limit/exclude the use of minority languages.***

In conclusion, in almost all cases when the percentage of Hungarians falls under 20%, the will and interest in applying the provisions of the law regarding minority language usage drop dramatically. Therefore, we would like ***to formulate our concern regarding the implementation of Article 3 of the Convention***, as the decision of introducing unilaterally 6.1% of the population without the possibility to ask their national identity or mother tongue is not only ***in contradiction with Article 3 of the Convention, but it could jeopardize the implementation of Articles 10*** on the use of minority languages in public administration and justice of the Convention as well, and ***could curtail minority language rights in settlements where the percentage of the minority falls under 20%.***

4. Detailed article by article comments on the implementation of the FCPNM

In the following Chapter we will tackle the implementation of the FCPNM article by article. First, we will present data on the preservation of the culture of national minorities (Article 5), arguing that the Romanian state drives back systematically the usage of minority symbols. Second, we will present the situation regarding freedom of association (Article 7), arguing that Romanian misinterprets the rights of minorities regarding this issue, and presents evidence that are not relevant from this perspective and committing several abuses in this matter. Third, we will discuss issues related to minority language usage (Article 10 of the FCPNM), presenting evidence on the fact that although the legal framework in this matter can be considered relatively fair, the implementation of minority language rights is ad-hoc, and lacks any structured approach by the Romanian state. Fourth, we will examine the minority rights in education (Article 12 and Article 14 of the FCPNM), presenting case studies on the anomalies generated by the adoption of Law 1/2011 on minority education. Fifth, we will present data on the participation of persons belonging to national minorities (Article 15 of the FCPNM), arguing that the law curtails the rights of minorities to choose their own representatives, as it is almost impossible to establish new organizations. Last, but not least we will present data on the regionalization debate in Romania (Article 16 of the FCPNM).

Article 5

Paragraph 1

The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

Paragraph 2

Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

Under this article the Romanian state report focuses mostly on the financial support of national minority organizations. Although this is an important action, in our opinion the maintenance and development of culture in the case of national minorities is much more. In line with Article 5 of the FCPNM the government formulated a strategy on inter-ethnic relations,¹³ which stipulates, that “[t]he policies towards minorities are aimed at the preservation, promotion and development of their ethnic, cultural, religious and linguistic identity through affirmative policies; combating discrimination and promoting tolerance.” Although this would guarantee the implementation of Article 5 of the FCPNM, unfortunately state action is not in line with this strategy, neither with the provisions of the Framework Convention.

In the last couple of years, no legal act was adopted aiming to regulate the implementation of Article 5, and no other governmental measures were taken in this respect. Not to mention that there are numerous cases when state authorities are the one initiating actions that break these provision, or do not intervene when these rights are questioned or ignored by other parties. We will further describe some of these cases in the present Report. For reasons of brevity we will give only a limited number, but relevant examples in this respect: 1) the usage of the Szekler flag, and 2) the singing of the Hungarian anthem.

¹³ The strategy can be accessed on the web page of the Romanian Government: <http://gov.ro/ro/objective/strategii-politici-programe/minoritati&page=1>

The use of the Szekler flag

For the Hungarians living in Transylvania an important element of identity is the Hungarian flag and anthem, which symbolizes their belonging to the Hungarian nation. Beyond these the Hungarian community living in Szeklerland has its own flag and anthem, which symbolizes their specific regional identification with the land they live in, and their historical heritage. On important national and historical commemorations Szeklers use both flags and both anthems are sang. Also, Hungarians living in other parts of Romania are keen to hold holidays and commemorations related to the Hungarian community's history, where they use the Hungarian flag and sing the Hungarian anthem, alongside with the Romanian flag and anthem.

Having in mind the provisions of Article 5 and the above presented governmental strategy, the authorities are expected to accept what these flags and anthems mean for the Hungarian community and to clearly regulate their usage, both in private and public sphere. Unfortunately, this is not the case, and that leads to serious tensions, especially in Szeklerland. The problem is not new, as the Council of Europe already formulated an opinion with respect to the usage of national and regional symbols in the ECRI report on Romania issued in 2014, which recommended the following:

170. ECRI recommends that the authorities appease tensions between the majority population and ethnic minorities, foster a climate of tolerance and take action when racist discourse is used. ECRI also recommends that the authorities ensure that the principle of equal treatment is applied as concerns the display and use of national and regional symbols and to remedy any breach thereof.

A. New concerns regarding the usage of minority symbols

In the past few years several actions and events give cause for concern regarding the usage of the Szekler flag. In the following paragraphs we would like to enumerate the most important of these.

1. Sadly, the Romanian language regional and national media is often campaigning against the Szekler flag. Articles appear regularly, which state that the usage of the flag is illegal, and report that authorities ask for its removal.¹⁴

2. The Romanian politicians – indifferent of party affiliation and place of activity (even those living outside of Szeklerland) – consider that they have to raise their voice against the usage of the Szekler symbols. Many of them do not even recognize Szeklerland as a region of Romania, referring to it as the “So called Szeklerland”¹⁵

¹⁴ See for example the following articles appeared in the national media:

Steagul secuiesc arborat în continuare pe clădirea primăriei Sovata [Szekler flag still hoisted on the town hall Sovata]. *adevarul.ro*, 18 March 2010 (http://adevarul.ro/locale/targu-mures/targu-mures-update-steagul-secuiesc-arborat-continua-cladirea-primariei-sovata-1_50ae88c17c42d5a6639da44b/index.html)

Partidele maghiare refuză să dea jos steagul secuilor de pe sedi. Poliția a anunțat că formațiunile politice vor fi amendate [Hungarian parties refuse to take down the Szekler flag. Police said that they will be fined]. *jurnalul.ro*, 1 November, 2013 (<http://jurnalul.ro/stiri/observator/partidele-maghiare-refuza-sa-dea-jos-steagul-secuilor-de-pe-sedi-politia-a-anuntat-ca-formatiunile-politice-vor-fi-amendate-654585.html>)

¹⁵ A member of Parliament from Alba/Fehér County calls the inhabitants of the “So called Szeklerland” extremist because they hoist their flag on private and public buildings, and demands the removal of those flags (Călin Potor: Lăsați jos steagul secuiesc! [Calin Potor: Lower the Szekler flag!] ProAlba, <http://proalba.ro/calin-potor-lasati-jos-steagul-secuiesc>).

3. While the Hungarian civil society is weak and rarely initiates advocacy activity or strategic litigation related to minority rights, in the Romanian NGO sector civil organizations are created, which initiate court action against minority symbols: Hungarian and Szekler flags and Hungarian language signs. This organization¹⁶ calls local authorities to remove the Szekler flag from their official buildings and files complaints to courts in case the institutions are not fulfilling the demand. The courts, upheld the applicants' claims, obliging local councils and mayor's offices to remove the Szekler flags. Annex 2 contains a list of the complaints filed against the usage of Szekler flag since March 2015 and their result. As it can be seen, ***from the 13 trials, the only cases when these complaints were rejected were when the mayor fulfilled the request before the ruling of the court.***

4. The prefects, although have as legal obligations to "*act for the maintaining of social peace*" are also filing such complaints to the courts.¹⁷ These actions are taken despite the fact that there is no law that would ban or even regulate the usage of regional flags.¹⁸ Also, it is important to mention that the usage of flags of other historical regions from Romania is not tackled.¹⁹

B. Changing legal background

In order to codify the usage of regional and local symbols the Parliament adopted Law 141/2015 on the display and usage of the flags of administrative territorial units.²⁰ This law however instead of granting free symbol usage, it rather makes it more difficult.

1. As the regions are no recognized administrative-territorial units of Romania, the usage of regional flags are not regulated by the law.

2. Article 3 of the Law describes how the flag of a county level institution can be adopted. According to the new procedure the flag-model adopted by the county council is sent to the Ministry of Regional Development and Public Administration, which asks for the opinion of the National Committee of Heraldry, Genealogy and Sigillography of the Romanian Academy. Based on the consultative opinion of the Committee the flag will be adopted through a Government Resolution.

3. Article 4, Paragraph 1 of the law states that "the administrative-territorial units will hoist their flag only at the headquarter of the local authorities and those of the local institutions, at the main entrance, above that and only together with the flag of Romania and the European", and that the flag "can be used also with the occasion of local manifestations and ceremonial or festive events, in the conditions of this law."

¹⁶ Details on the action of this organization called Civic Association for Dignity in Europe (ADEC) can be accessed on the following link (<http://www.dantanasa.ro/exclusiv-a-fost-constituata-asociatia-civica-pentru-demnitate-in-europa/>)

¹⁷ See for example the case filed against the mayor's office of Târgu Secuiesc / Kézdivásárhely (case nr. 1414/119/2013) or the ongoing case against the county council of Covasna / Kovászna county (763/119/2016).

¹⁸ On the legal regulation of the usage of regional flags see the following subchapter entitled *Changing legal background*.

¹⁹ see for example the flag of Bucovina, a historical Romanian region from Transylvania with distinct history, traditions and flags. See: În Gura Humorului a fost ridicat steagul Bucovinei și s-a dezvelit o statuie unică a lui Ștefan cel Mare [In Gura Humor the flag of Bucovina was hoisted and a unique statue of Stephen the Great was unveiled]. Suceava News, 28 November 2015 (<https://svnews.ro/in-gura-humorului-a-fost-ridicat-steagul-bucovinei-si-s-a-dezvelit-o-statuie-unica-a-lui-stefan-cel-mare/66079/>)

²⁰ for the full translation of the law see Annex 3.

The three articles combined however could have an opposite result: although the law was created to regulate and safeguard the usage of local and regional flags, in some contexts it can be used to curtail the right of people and institutions in using the Szekler flag.

1. The problem of applying the law on the Szekler flag was seemingly bridged by the Harghita/Hargita county council: since 2009 the county council tries to make Szekler flag the official flag of Harghita/Hargita county.²¹ The topic was put on the agenda of the county council twice, in 2009 (county council decision 269/2009) and in 2015 (county council decision 324/2015) after Law 141/2015 came into force. In both cases the decision was adopted by the county council,²² in both cases it was attacked by the prefect in court. This last case (nr. 220/96/2016) is still pending. Even if the Harghita/Hargita county council would win the case, in order for the decision to become official, according to Article 3 of the law it needs to be positively commented by the National Commission of Heraldry, Genealogy and Sigillography of the Romanian Academy, and adopted by the Romanian Government. By these new provision the right of administrative-territorial units to decide on their own flag was taken away and were transferred to the government, which could delay or even cancel its approval by refusing to adopt the needed resolution. Also, these new measures even could violate the provisions of the European Charter of Local Self-government, and many mayors from the Szeklerland already made complaints to the Monitoring Committee of the Congress on this issue.

2. The acceptance of the Szekler flag as the official flag of Harghita/Hargita county can have other negative consequences as well. As Article 4 of the law regulates its usage on official buildings and ceremonies, authorities could take a restrictive approach in the case of its private usage. This was the case in June 2016, when a local councilor was fined for 10 000 lei (2270 EUR – see Annex 4) in Miercurea Ciuc/CsíkSZereda for hoisting a Szekler flag. The person in question set up a flagpole in the central square of the city, on which he raised the flag. He made all necessary administrative steps and obtained all permits for building the flagpole, but the police considered that his actions were not in concordance with Article 4 of Law 141/2015 and he did not raised the flag of Harghita/Hargita county in the conditions stipulated in the law.²³ The councilor formulated an appeal against the fine in Court, the case is still pending. Although the flag is not yet the official flag of Harghita/Hargita county, its possible acceptance created an ambiguity which was exploited in this specific case

Singing the Hungarian anthem

In 2001 the Government adopted Resolution 1157/2001 on the norms of usage of the Romanian flag and the anthem of Romania, which in Article 16 stipulated that *“The national anthem of other states can be played only during visits, celebrations and official ceremonies of international character, together with and before the Romanian national anthem.* In 2003 the Resolution was modified and the word “only” was deleted from Article. At the same time a new article (23¹) was introduced, which stipulates that *“national minorities, having organizations, associations or unions organized on national level, can use at specific actions their own symbols”*. Despite these modifications, several problems arise that make the Norms of application

²¹ the chronology of the flag be accessed on the official web page of Harghita/Hargita county (<http://www.hargitamegye.ro/zaszlo.html>).

²² See: *Ismét a székely zászló lett Hargita megye zászlaja* [The Szekler flag became the flag of Harghita County again]. transindex.ro, 12 December 2015 (<http://itthon.transindex.ro/?hir=41412>)

²³ See evidence in the media on this issue: *Elkobozták a főtéri székely zászlót Csíkszeredában* [Szekely flag confiscated in the main square of Miercurea Ciuc]. *Krónika*, 3 June 2016. (<http://kronika.ro/erdelyi-hirek/elkoboztak-a-foteri-szekely-zaszlot-csikszeredaban>)

There is a video included in the article as well.

ambiguous. First, it is not clear, whether the anthem can be considered a symbol or not. Second, it is not clear whether somebody singing the Hungarian anthem in Romania risks to be fined or not.

These legal lacunas were utilized in December 2014 by the prefect of Covasna/Kovászna County, which fined the Hungarian Civic Party because the Hungarian anthem was sang at an event organized by them. The organization turned to the court, arguing that it is not prohibited to sing the anthem of another country, and consequently asked for the annulment of the fine. The court annulled the fine in the end (see case nr. 5901/305/2014), but not because the singing of the anthem of another county was considered legal, but on procedural matter: the prefect fined the county organization of the party, while the organizer of the event was the local Sfântu-Gheorghe/Sepsiszentgyörgy organization. In other words, the court did not pronounce on the legality of the issue, delaying to clear up the ambiguity mentioned earlier.

Conclusions

In these few paragraphs we presented only some examples where the rights of minorities to use their own symbols were curtailed, but these types of actions can be considered common in the last few years in all regions of Romania where Hungarians live. In our opinion the provisions of Article 5 of the Convention are **breached, and the situation in this respect worsened since the previous monitoring cycle**. Furthermore, Romania **disregarded the comments and recommendations** issued by the ECRI Report, which called the attention of the Romania authorities to apply the principle of equal treatment concerning the usage of state and regional symbols.

Having said this, we would kindly ask the Advisory Committee to recommend Romania **to abandon** the restrictive strategy applied in the case of national and regional symbol usage by minorities, and **to encourage** Romania to start implementing its Strategy on interethnic relations, because that can lead not only to the improvement of the situation of national minorities in the country, but to more harmonic interethnic relations as well.

Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

Even though Article 7 of the FCPNM refers to some of the most fundamental rights and civil liberties, the Romanian State Report is quite taciturn in providing information on all fundamental rights enumerated under this article (out of these five rights, the government provides brief information on only one, the freedom of association). Much to our dismay some of the biggest problems that burden inter-ethnic relations between the Hungarian/Szekler community and the authorities of the Romanian state can be traced back to continuous attempts from public authorities to ban or hinder a specific demonstration, the so called “Day of the Szekler Freedom” (hereinafter DSzF). This event is organized in the historical capital of Szeklerland, Tîrgu Mureş / Marosvásárhely annually on 10 March,²⁴ by the Szekler National Council, and with the participation of domestic Hungarian political parties, as well as foreign guests (such as representatives of the Catalan governing party, Democratic Convergence of Catalonia / *Convergència Democràtica de Catalunya* (CDC), the governing Basque National Party / *Euzko Alderdi Jeltzalea – Partido Nacionalista Vasco* (EAJ-PNV), or the

²⁴ Marosvásárhely / Tîrgu Mureş is the multi-ethnic center of Maros County, where the deliberative and executive branches of the County are seated. According to the last census, 49.17% of the city’s population is Romanian, 42.84% is Hungarian, and 7.99% other.

European Free Alliance (EFA) party).²⁵ The event is composed of two parts each year: 1) Speeches from politicians, delivered at the Monument of the Szekler Martyrs (*Székely vértanúk emlékműve / Monumentul Secuilor Martiri*) and 2.) A march from the Monument to the office of the Prefect²⁶ of Mureș / Maros county (see the route of the demonstration on Picture 1 from Annex 5).²⁷ This event attracts 10-40.000 participants annually,²⁸ most of whom come from Szeklerland (as well as from other parts of Transylvania) to protest peacefully, democratically, and in an organized manner.²⁹

The main goal of the DSzF is to protest against the planned administrative reform of the government,³⁰ which in its present format attempts to assimilate the counties with substantial Szekler population into a larger administrative region in which the proportion of Hungarian/Szeklers would drop below 30% of the population (according to the last census conducted in 2011: 82.9% of Harghita/Harghita-, 73.79% of Covasna/Kovácsna-, and 38.09% of Mureș/Maros county is composed of Hungarian/Szeklers).

These state-plans alone already contradict Article 16 of the FCPNM, according to which “Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.” The failure of the administrative reform plan to comply with Article 16, thus serves as a starting point for the non-implementation of Article 7, given that Romanian public authorities aim to hinder the organization of the DSzF in order to cover up and repress the discontent of local citizen’s with the planned administrative reorganization. Various tools have been deployed to reach this goal:

Following the peaceful demonstration march on 10 March, 2014 the Gendarmerie of Mureș/Maros County issued a fine amounting to 12.000 RON / 2700 EUR for the organizers of the DSzF, based on Article 26 a) of Act 60/1991 on the organization of public meetings (see Annex 6). This article aims to penalize those who are “organizing and conducting undeclared, unregistered or prohibited public meetings”. This has proved to be the main argument against the event and its organizers, and has been continuously invoked by the authorities’ year after year. The Gendarmerie had argued that one would need prior approval from the police to hold any demonstration. On the contrary, the organizers argued that according to Romanian legislation, one only needs to inform the authorities about a demonstration (which they did), and not ask for their permit, given that the right to assembly and to free speech are fundamental human rights that are not contingent on the good will of the police. Consequently, the organizers filed a lawsuit against the Gendarmerie before the Court of Tîrgu Mureș/Marosvásárhely, which transferred the case to the Administrative Court. The case is still pending.

²⁵ Foreign guest who gave speeches during the DSzF included: Marc Gafarot i Monjo from CDC in 2013, 2014, and 2016; Iker Merodio, Basque journalist in 2014; Günther Dauwen, Director of EFA in 2014, and 2016; José- Mari Etxebarria, Foreign Affairs Manager of EAJ-PNV in 2016.

²⁶ The prefects are appointed by the central government, and have the duty to oversee that laws of the country are being respected on the local level. For further information visit the homepage of the Prefect of Mureș / Maros county: [http://www.prefecturams.ro/portal/portal.nsf/AllByUNID/\\$First?OpenDocument](http://www.prefecturams.ro/portal/portal.nsf/AllByUNID/$First?OpenDocument).

²⁷ The monument commemorates the martyrdom of three Szekler patriots who were executed on 10 March, 1854 (Gálffy Mihály, Horváth Károly, Török János) by the Habsburg authorities, as a retaliation for their participation in an anti-Habsburg plot.

²⁸ These numbers are estimations. Each year there are controversies regarding the number of protesters present at the event: Hungarian political actors and Hungarian language media outlets tend to overestimate, while the Romanian authorities and the Romanian language media outlets tend to underestimate how many people participate.

²⁹ See pictures taken during the DSzF in 2014 in Annex 5

³⁰ See more details on the administrative reform under Article 16 of Chapter 4

In 2015, the Mayor of Tîrgu Mureş/Marosvásárhely, Dorin Florea decided to simply ban the annual DSzF, claiming that it creates “ethnic unrest”, and turns the city into a “conflict zone” (see Annex 7 for the Mayor’s notification on the ban).³¹ The organizers contested this decision before the Court which ruled in favor of the Mayor, due to legal technicalities which happens often in Romania. The court’s decision did not take into account the actual topic of the contestation, but dismissed the case instead due to procedural reasons, stating that before turning to the Court the plaintiffs should have made a prior complaint to the Mayor’s Office (see Annex 8).

In an attempt to prevent malicious practices of the authorities, the organizers filed a prior notification, according to the provisions of the law with the Mayor’s Office already on 2 March 2015, announcing that they will hold the DSzF in the same usual place also in 2016, and 2017. Even so, the Mayor’s Office decided not to acknowledge this notification,³² and argued instead that the announcement came too early, and should rather be made at a later stage, closer to the date of the actual event. Furthermore, the Mayor’s Office argued that organizing the DSzF in 2016 will be problematic, given that it falls into election year (!), and that road construction works have been planned for the trail of the event, due to which public security across the city will be constantly changing (even though they weren’t able to clarify what kind of construction works they were referring to, see Annex 9). The organizers again turned to the Court, which ruled in favor of them in its decision from 8 January, 2016 (Judgement No. 16/2016, see Annex 10), concluding that the above mentioned arguments of the Mayor’s Office lacked any kind of legal basis whatsoever to deny the registration of the event, and that the organizers fulfilled all prior notification requirements. Additionally, the judge admonished the Mayor for refusing to acknowledge the announcement of the organizers, because with this conduct he deliberately “refused to settle the request of the applicant”.³³

A week after the DSzF of 2016 had been peacefully held, the Gendarmerie of Mureş/Maros County started to issue fines amounting to 66.000 RON / 13.700 EUR in 50 cases pursuant to Act 60/1991 for participating in an undeclared, unregistered or prohibited public meeting, and 9.800 RON / 2.200 EUR in more than 40 cases pursuant to Act 61/1991 for noise disturbance (!) (see an example of a protocol of such a fine in Annex 11). This year the Gendarmerie started fining not just the organizers, but also the participants. In some cases, the fined individuals were not even present in Tîrgu-Mures/Marosvásárhely on the day of the demonstration. ***Given that the event has taken place without any public disturbance, the explanation for penalizing the peaceful exercise of the fundamental right to assembly and free speech, in our view, is to deter people from participating in the DSF in the future.*** As a response to these unlawful fines, the organizers lodged a plaint for abuse of power against the Gendarmerie. The case was transferred to the Office of the Military Prosecutor, where it is still pending. Parallel with this, the Szekler National Council encouraged people to turn to the Court of Tîrgu Mureş/Marosvásárhely asking it to annul all fines issued to participants of the DSF. Most of the individuals followed suit, and the commissioned lawyer, has started working on all their cases.³⁴ The case of the main organizer, Izsák Balázs (President of the Szekler National Council), was concluded by the Court this July with a mixed outcome. The Court annulled the 6000 RON which was issued for organizing the event, but sustained the 4000 RON large fine for not filing the proper paperwork latest before 48 hours of

³¹ The issue was discussed in the press as well: e.g. *Marşul secuilor naşte tensiuni înainte de organizare* [The rally of the Szeklers gives rise to tensions]. Evenimentul Zilei, 09.03.2016 (<http://www.evz.ro/marsul-secuilor-naste-tensiuni-inainte-de-organizare.html>).

³² See the last sentence of Annex 9: “*Fată de cele prezentate mai sus, vă comunicăm faptul că activitățile NU SUNT APROBATE, ele fiind în continuare atenția noastră*”, meaning: “regarding those presented above, this way we let you know, that the activities are NOT APPROVED, but they remain in our attention”.

³³ p. 6, last paragraph of Judgment 16/2016

³⁴ The Szekler National Council provided free legal aid to the fined participants of the DSzF.

the event to the Gendarmerie (on the contrary, the first consultation between the organizers and the Gendarmerie regarding the details of the DSzF in 2016 happened on 16 February. Mr. Izsák has already submitted an appeal against this decision).

Based on the previously presented cases we can state, that not only do the Romanian authorities apply punitive measures against citizens peacefully exercising their fundamental right to assembly, it appears that these measures have an **ethnic profiling**. The double standard of the authorities in this regard came to the fore particularly well during the fall of 2015. After the *Colectiv* nightclub in Bucharest during a rock concert had burned down on 30 October 2015 leaving 64 dead and more than 180 injured, large masses of people in the Romanian capital spontaneously participated on a series of unregistered demonstrations against corruption. Even though there was no one organizing these demonstrations no individual was fined, nor prosecuted as a result of his/her participation in the protests. Similar inequalities can be found in the treatment of various political messages. The far right, neo-Nazi *Noua Dreaptă* (New Right) movement repeatedly organizes marches in cities inhabited by Hungarians, chanting slogans inciting hatred against Hungarians (for example: "Harghita and Covasna is Romanian land", "Get Hungarians out of the country!", "Romanian language is the only ruler" or that "Romania is for Romanians").³⁵ On 13 February, 2013 *Noua Dreaptă* organized a protest in Cluj/Kolozsvár at the Hungarian Consulate General, and parallel with that a protest in Bucharest at the Hungarian Embassy against the use of the Szekler flag on public buildings. Regardless of the fact that the latter protest was a non-registered event, the police did not intervene, or impose any fines afterwards.³⁶ Even though the DSF is conducted without violence, public disturbance, or incendiary messages, the Romanian authorities initiate numerous proceedings against organizers, and since 2016 also against participants. Whereas on the other hand, marches of the Romanian far-right never encountered any bans, fines or other administrative proceedings, no matter how inflammatory, biased and disrespectful their messages towards Hungarians might be. Juxtaposing these examples shows that the authorities in Romania apply the right to assembly in a discriminative, and selective way to the detriment of persons belonging to the Hungarian minority.

The above explained phenomena indicates that there is a tacit agreement among Romanian authorities that they *de facto* possess the capacity to effectively ban or allow public protests to be held. This interpretative framework is diametrically opposed to that of the Council of Europe, which was reflected in several cases of the European Court of Human Rights (ECHR), most notably in the case of *Bukta and Others v. Hungary*.³⁷ In this Judgment, adopted on 17 July 2007, the ECHR reiterated that „*the subjection of public assemblies to a prior-authorization procedure does not normally encroach upon the essence of the right* (see *Rassemblement Jurassien and Unité Jurassienne v. Switzerland*, no. 8191/78, Commission decision of 10 October 1979, Decisions and Reports 17)....” (paragraph 35 of the Judgment). Furthermore, the ECHR noted that “*where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain*

³⁵ Sources: Protest in *Sepsiszentgyörgy / Sfântu Gheorghe* on 1 December, 2014 (the national holiday, commemorating the Romanian National Councils declaration from 1918 claiming that Transylvania is part of Romania: <http://www.maszol.ro/index.php/belfold/39447-magyarellenes-roman-unnep-sepsiszentgyorgyon>. *Noua Dreaptă* also marched several times in Arad on 6 October, against Hungarian „irredentism” (on this day Hungarians commemorate the downfall of the 1848-1849 revolution, and the execution of 13 of their generals in Arad by the Habsburg authorities): http://www.nyugati-jelen.com/jelenido/a_magyar_irredentizmus_ellen_tuntetnek_aradon.php. *Noua Dreaptă* prefers to march in *Tîrgu Mures/Marosvásárhely* as well, like they did on 27 March, 2015 demanding the unification of Romania with the Republic of Moldova (Bessarabia): <http://www.kozpont.ro/hirek/belfold/marosvasarhelyen-tuentetett-az-uj-jobboldal/>.

³⁶ Source: <http://mno.hu/hatarontul/a-szekelyek-nem-magyarok-tuntettek-a-szelsonacionalistak-1138066>. See video on the event at: <http://ziuadecj.realitatea.net/eveniment/noua-dreapta-a-pichetat-consulatul-maghiar-din-cluj-fotovideo--106254.html>.

³⁷ Available at: www.legislationline.org/documents/id/17932.

degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance” (see Oya Ataman v. Turkey, no. 74552/01, §§ 41-42, ECHR 2006-XIV) (paragraph 37 of the Judgment).

The attitudes of the Romanian administrative- and law enforcement institutions towards Hungarian/Szekler organizations is not a new issue. The Advisory Committee of the FCPNM in its Third Opinion on Romania, adopted on 21 March 2012 (ACFC/OP/III(2012)001) noted that *“in some counties, like Harghita, the inter-cultural dialogue between persons belonging to the Hungarian minority remains problematic”* (Paragraph 104 of the Opinion). The systematic abuses of power of the Romanian law enforcement institutions are also no secret to the Advisory Committee, which is why the Third Opinion urged „the Romanian authorities to investigate effectively, prosecute and sanction as necessary all forms of misconduct by the police. The authorities should take further, more resolute steps to put an end to police misconduct and abuse, including of a racist nature.” (Paragraph 117 of the Opinion).

Conclusions

In conclusions, we consider the practices of both the Mayor’s Office and the Mayor, as well as the Gendarmerie of Tîrgu Mureş/Marosvásárhely regarding the DSzF ***as being in breach of Article 7 of the FCPNM***. Consequently, we would respectfully invite the members of the Advisory Committee to recommend to Romania that public authorities (including police forces, local and central governments)

- ***stop ethnic profiling*** with regards to peaceful assemblies organized by members of the Hungarian community, and to abandon their practice of interpreting fundamental human rights in a malicious, discriminative, and unlawful way.
- ***cease with applying double standards regarding Szekler/Hungarians and their political initiatives***, and instead use the case law of the European Court of Human Rights as a guideline to bring about an interpretation and implementation of the fundamental rights to assembly, and free speech that are in line with the provisions of the Framework Convention for the Protection of National Minorities.

Article 10

Paragraph 2

In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavor to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

Paragraph 3

The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

General comments on the Forth State Report submitted by Romania regarding Article 10

The Romanian State Report is very vague regarding minority language usage. In the case of Article 10 several comments can be made.

- The Report enumerates some legal provisions regarding minority language usage (p. 36), but these are superficial and incomplete. In the following section we will present all legal provisions regarding the issue.

- No concrete data is presented on language usage within the local councils and mayor's offices, or the number of Hungarian speaking employees in any of the institutions concerned (p. 36).
- Several institutions receive documents written in a minority language with one condition: a legalized Romanian translation has to be submitted along. This clearly proves that documents written in a minority language are not accepted, as institutions will use the Romanian translation and not the one written in a minority language. This is the case of all courts, as Article 150, paragraph 4 of the new Code of Civil Procedures (entered in force in 2013) stipulates that for all documents submitted to court written in a foreign language, a legalized translation should be attached. It is important to note, that the earlier Code did not contain this condition, thus the **language rights of national minorities worsened** in this monitoring cycle.
- The State Report presents some figures about cases when interpreters were used in courts (p. 41), but these are not sufficient evidence for proving that the provisions of the FCPNM are fulfilled in respect of the courts. For this 1) the total number of cases when somebody asked for translation, 2) the number of cases when that request was denied should be submitted as well. Furthermore, it is important to mention that people turning to courts do not always know that they have the right to ask for translation. In areas where the percentage of Hungarians is overwhelming, elder people speak and understand little Romanian. In their case going to court without translation is a great disadvantage, which can influence the outcome of the trial in a decisive way. All in all, in our opinion **this sensitive area of public life needs to be addressed with much more attention by the authorities**, and we kindly ask the Advisory Committee to recommend Romania to take such action.
- The State Report does not mention anything about minority language usage within the Police. According to our knowledge in the case of the Police, the use of minority languages is practically non-existent. The state makes no sizable efforts to hire minority language speaking police officers or to teach the existing personnel the language of different minorities. In this respect it is relevant that **in many villages with more than 95% of the population is Hungarian speaking the local police officer does not speak Hungarian**.

Legal background and the Romanian administrative system

In Romania the use of minority languages in relation to public authorities is not regulated by a single legal framework, but it is guaranteed by several articles in different laws. Some of these are specified on page 36 of the Forth State Report submitted by Romania as well, however not all legal provisions are enumerated. The following table (Table 4.1) identifies all the relevant legal provisions in the Romanian law which regulate minority language usage:

Table 4.1: The legal background of minority language usage in relation with public authorities

Romanian Constitution – Article 120, Paragraph 2:

- in the territorial-administrative units where citizens belonging to a national minority have a significant weight, provision shall be made for the oral and written use of that national minority's language in the relations with the local public administration authorities and the decentralized public services, under the terms stipulated by the organic law.

Law 215/2001 on local public administration – Article 76, Paragraph 3:

- in territorial units where the percentage of the national minority is at least 20%, the local administration should hire also people who know the language of the local minority. The law does not make it clear that all public servants who are in contact with the citizens must know that minority language.

Law 188/1999 on the statute of public servants – Article 108:

- in territorial units where the percentage of the national minority is at least 20%, some of the public servants who are in direct contact with the citizens should know the language of the local minority.

Law 215/2001 on local public administration – Article 76, Paragraph 2:

- in territorial units where the percentage of the national minority is at least 20%, its members can use their own language in their oral or written communication with the institutions subordinated to the local administration

Law 215/2001 on local public administration – Article 39, Paragraph 7 and Article 94, Paragraph 8:

- in territorial units where the percentage of the national minority is at least 20%, the agenda of the local and county assembly meetings is going to be published in the language of the minority as well

Law 215/2001 on local public administration – Article 50:

- in territorial units where the percentage of the national minority is at least 20%, normative resolutions are translated in the language of the minority as well, but individual resolutions are translated only if that is requested.

Governmental Decision 123/2002 for approving the Rules for implementing the provisions of Law no. 544/2001 on free access to public information – Article 12

- in administrative-territorial units where a national minority has a share of at least 20% of the population, information needs to be communicated both in the minority language and Romanian

Law 215/2001 on local public administration – Article 76

The legislation prohibits drafting documents in a regional or minority language

Law 215/2001 on local public administration – Article 42, Paragraph 2 and Article 98:

- the official language of assembly meeting is Romanian, however in assemblies where 1/5 of the members belongs to a national minority the language of that minority can be used at the meetings. In these cases the translation to and from Romanian will be assured. The documents of the meeting will be written exclusively in Romanian.

Government Decision 1206/2001 for approving the Rules for implementing the provisions concerning the right of citizens belonging to national minorities – Article 3 and Article 6, Paragraph 1 and 2:

In local or county councils where minority councilors represent at least 1/3 of the total number of councilors they have the right to use their mother tongue (this is a higher threshold than the one stipulated in Law 215/2001, so a contradiction in the legislation).

- the mayor has to ensure that translation in and from Romanian

- all the documents drafted at these meetings will be in Romanian

Law 340/2004 on the prefect and the prefect's institution, republished – Article 19, Paragraph 1, Sub-paragraph m

- in territorial units where the percentage of the national minority is at least 20%, it assures the minority language usage of citizens in their relation with the prefect's office and the deconcentrated services subordinated to it

Another important issue to clarify is **which public authorities are bind by law to implement this legislation.**

The Romanian administrative system is organized on three levels. Under the national level, on the second level there are the counties and the capital city of Bucharest, while on the third level there are the municipalities. From an administrative point of view, the counties are governed by an elected county council, while the settlements by an elected local council and elected mayor. These bodies are the public authorities in the local administrative units, and are entitled to 1) take decisions concerning local issues, 2) spend the funds allocated from central level. In other words, all local institutions are subordinated to them.

Another important institution on the county level is the Prefect. It is appointed by the central government *"for each county and Bucharest municipality. The prefect is the representative of the government at the local level and directs any public services of the ministries and other central agencies at the county level. A prefect may block the action of a local authority if he deems it unlawful or unconstitutional. The matter is then decided by an administrative court."*³⁸ According to Article 18, Paragraph 3 of Government Decision 1206/2001, the prefect is entitled to apply sanctions for those who break the legal provisions related the use of minority languages in the administrative institution.

³⁸ see: ROMANIA, *Public Administration, Country Profile. 2003*. Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA) United Nations.
(<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023222.pdf>)

From the perspective of the provisions of Article 10 of the FCPNM mayor's offices, local councils, the deconcentrated services of the national public services and the prefects are equally important institutions, as the first three are responsible for implementing the provisions of the law on local public administration, while the latter one is responsible for the monitoring the activity of the former three.

Mayor's offices and local councils operate most of the local institutions and decides in most of the local issues. According to article 38, paragraph 2 of the 215/2001 law on public administration local council has the following attributes:

- the organization and maintenance of the mayor's office, local public institutions and public services, and local public interest commercial services
- decisions regarding the socio-economic and environmental development of the settlement
- the administration of the public and private domain of the settlement
- the management of services provided to citizens

In other words, it functions closest to the citizens, performing important tasks regarding the everyday life of the settlement's inhabitants.

According to the Romanian administrative system national public services (ex.: the National Agency for Fiscal Administration, the National Agency for Employment, the National House of Public Pensions, the National Customs Authority, the National Public Health Agency, the National Institute of Statistics, the Romanian Police, the National Forest Authority – Romsilva, the National Environmental Protection Agency, the Romanian Road Authority - A.R.R. and many others) have county level branches which resolve the problems, demands and requests of the citizens in the area. These are called "de-concentrated" services.

According to the Romanian legislation public administration institutions (local and county councils, mayor's offices and subordinated institutions, and deconcentrated services and prefects) that function in areas where the percentage of a minority is at least the 20%, the citizens have the right to contact these institutions in their mother tongue, both orally and in written format. The contacted public administration institutions need to answer both in Romanian and the language of the minority.

From the 41 counties that the state is divided into, there are several with a measurable Hungarian speaking population, however only six of them are above the 20% threshold: Bihor/Bihar, Covasna/Kovászna, Harghita/Hargita, Mureş/Maros, Satu Mare/Szatmár and Sălaj/Szilágy counties. Therefore, county councils and its subordinated institutions, deconcentrated services and prefect's offices functioning in these counties are bind by the law to enforce the provisions of the law regarding minority language usage presented above.

From the 3181 settlements³⁹ there are 323 settlements in Romania, where the percentage of Hungarians is at least 20% (see Table in Annex 12). Therefore, according to the results of the 2011 Census the implementation of Article 10 of FCPNM affects 963 098 persons, 76.7% of the total Hungarian population in the country living in 323 settlements (35 towns, and 288 villages). From these 102 settlements are situated in counties that have a Hungarian majority (Harghita and Covasna), 158 settlements in counties where the percentage of Hungarians is at least the 20% (Bihor, Mureş, Satu Mare and Sălaj) and 63 settlements in counties where the Hungarians do not reach the 20% threshold (Alba, Arad, Bistriţa, Braşov, Cluj, Hunedoara, Maramureş, Sibiu and Timiş).

³⁹ see *România în cifre* (Romania in Numbers), National Institute of Statistics, 2012

Monitoring Project on the implementation of minority language usage in Romania

As mayor's offices, local councils are the closest institutions to the citizens and they upkeep most of the local institutions, the implementation of the language rights according to the provisions of Article 10 of FCPNM and the Romanian legislation is utmost important. The above presented monitoring project focuses on these entities.

Nationwide survey on minority language usage within mayor's offices

Between May 2014 and February 2015 the Bálványos Institute, a partner research institute of the Hungarian National Council of Transylvania organized a nationwide survey regarding minority language usage in mayor's offices and local councils.⁴⁰ This had two sections: first, an official letter in Hungarian was sent (see Annex 13) to each and every mayor's office asking for information of public interest regarding the implementation of the provisions of the law, and on the other hand, the online linguistic landscape of the mayor's offices was analyzed: in what language is information provided to the population on official homepages, and what are the differences between the Hungarian and Romanian language information-provision.

In the following part we will present data on the 323 settlements where the percentage of Hungarians is above 20% in the following categories:

1. the percentage of settlements that can communicate in Hungarian and communicate information in both Hungarian and Romanian, according to Article 76, Paragraph 2 of Law 215/2001 and Article 12 of Governmental Decision 123/2002
2. the percentage of settlements where the agenda of the local council meetings are translated into Hungarian, according to Article 39, Paragraph 7 of Law 215/2001
3. the percentage of settlements where the normative resolutions are translated in the language of the minority, according to Article 50 of Law 215/2001

1. Communicating information in Hungarian to the population

The ability of communicating in Hungarian of the mayor's office can be tested several ways. In our monitoring project used two: i) the language of the answer on our letter received from the mayor's offices and ii) the language usage on the official webpages of the administrative units, iii) the number of requests received in Hungarian by the mayor's office.

i) How many mayor's offices answer our letter in Hungarian?

According to the Romanian legislation (Article 76, paragraph 2 of law 215/2001) if a public institution in a settlement or territory where the percentage of the minority is at least 20% receives a letter in a minority language needs to answer both in Romanian and the same minority language that the letter was sent. In other words, if one of the 323 mayor's offices where the percentage of Hungarians is at least 20% receives a Hungarian language letter, it needs to deliver the answer both in Romanian and Hungarian. Also, as the date of adoption of the law shows, these provisions are valid for more than 15 years, however as the results

⁴⁰ For the results of this survey see: Toró Tibor: *A magyar nyelv használata az erdélyi polgármesteri hivatalokban. Egy kutatás tanulságai* [Hungarian language usage in Transylvanian mayor's offices. Experiences from a research]. Paper presented at the Nyelv(használat) a gyakorlatban [Actual Language (usage)] conference, Budapest, 19 February 2015.

presented below show, these are still not put into practice in every settlement. As shown in Figure 4.1⁴¹, only 26.6% of the mayor's offices answered the letter in Hungarian and 9.9% in both Romanian and Hungarian. The rest of the settlements answered in Romanian (4.3%) or did not answer at all (59.1%).

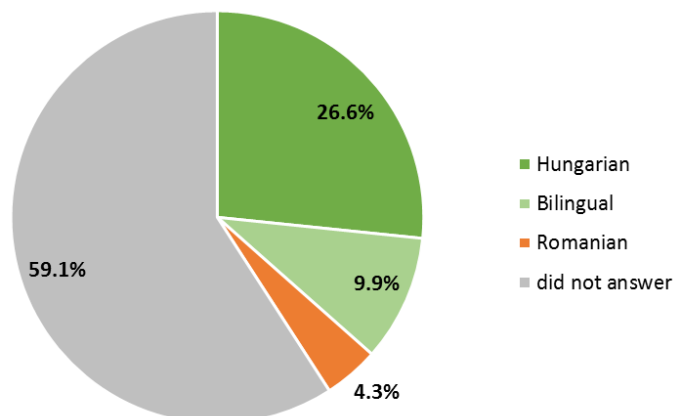


Figure 4.1: The language of the answer-letters received from the mayor's offices

ii) What is the language usage on the official webpages of the administrative units

As it appears in Figure 4.2, from the 323 settlements where the percentage of Hungarians is at least 20% **38.1% (123 settlements) have exclusively Romanian webpages**, 2.2% (7 settlements) have only Hungarian webpages, and only 51.4% of the settlements host webpages with bilingual content. The rest of the settlements had no Hungarian webpages at that time.

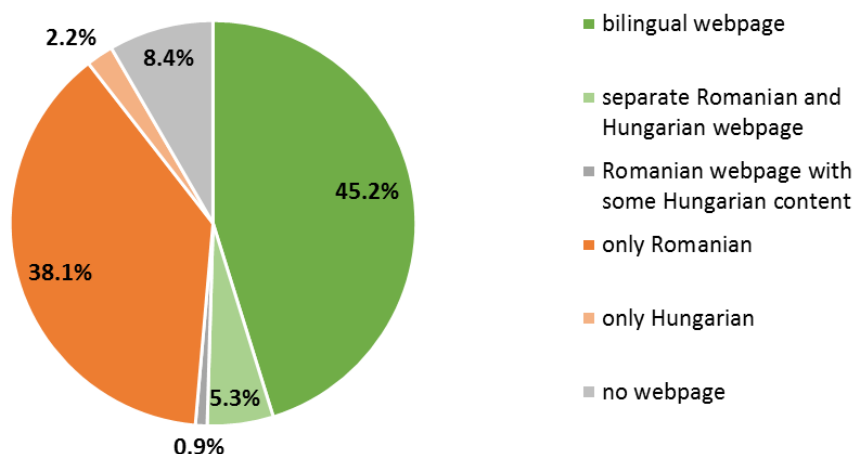


Figure 4.2: The language of webpages (regardless of its content) N=323

From the 165 webpages that had some Hungarian content, only a few are actually updated regularly with information in Hungarian language. As the chart on Figure 4.3 shows, only in 20% of the cases information is updated regularly both in Hungarian and Romanian. In 25.5% of the cases there is more information in Hungarian (most of these settlements have a Hungarian majority of more than 80%). **In 40% of the cases there is hardly any useful information available in Hungarian on the webpages.** The rest of the webpages (14.5%) are never updated.

⁴¹ All figures presented under Article 10 of the FCPNM were created by the authors of the shadow report based on the data of the Bálványos Institute.

The data presented in this report slightly differs from the one presented in our Shadow Report submitted to the Language Charter in June 2016. These difference can be explained by the different methodologies applied in the two cases. While in the case of the Language Charter we focused on the minority language usage within the municipalities claimed to implement the legal provisions related to minority language usage by the State Report, in this case, as the state report did not present any detailed data on implementation, we interpreted the data on all eligible municipalities.

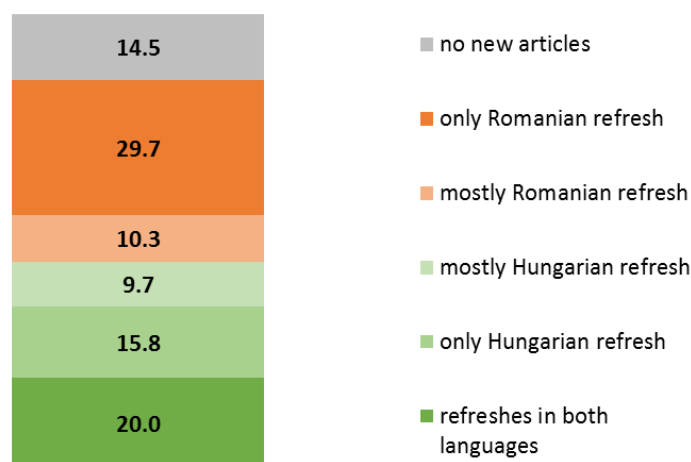


Figure 4.3: How regularly are the webpages updated and in which language?

iii) How many requests did the mayor's office receive in Hungarian?

The numbers are even more disappointing if we look at the number of applications received by the local authorities (Figure 4.4). Only **5% of the settlements received any oral or written applications in Hungarian** and 9.9% presented a declaration of intention, according to which if an application would be submitted in Hungarian, they would be capable answering them in the same language. The rest of the 275 settlements did not reply to the submitted letters (59.1%), or avoided to answer the question (17%) or declared that they did not receive any applications in Hungarian (9%).

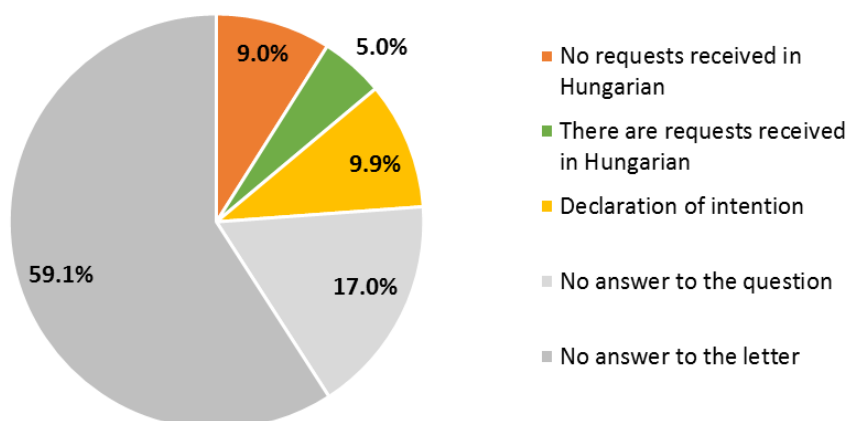


Figure 4.4: Are there any Hungarian language requests received by the mayor's office?

2. The translation of official documents into Hungarian

According to the Romanian legislation if the percentage of the minority in a settlement is above a 20% threshold, i) the agenda of the local/county council meetings and ii) the normative decisions adopted by these bodies needs to be translated to the language of minority.

i) How many settlements translate the agenda of the local council meetings to Hungarian?

According to the replies received from the mayor's offices, from the 323 settlements bind by the law **only 22.9% admits to translate the agenda of the local council into Hungarian**. 12.7% does not translate decisions, while the rest of the settlements did not answer to the letter or the question (Figure 4.5).

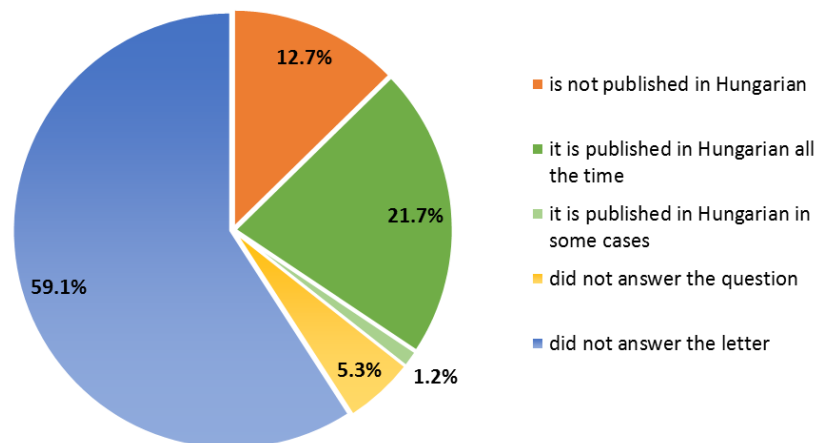


Figure 4.5: Is the agenda of the council meetings translated to Hungarian?

ii) How many settlements translate the decision of the local council meetings to Hungarian?

The other type of document that needs to be translated according to the law is the decision of the local council meeting. According to the replies received from the mayor's offices, from the 323 settlements where the percentage of Hungarians is above the 20% threshold, **only 18.6% admits to translate some or all decision of the local council into Hungarian**. 15.2% does not translate decisions at all, while the rest of the settlements did not answer to the letter or the question (Figure 4.6).

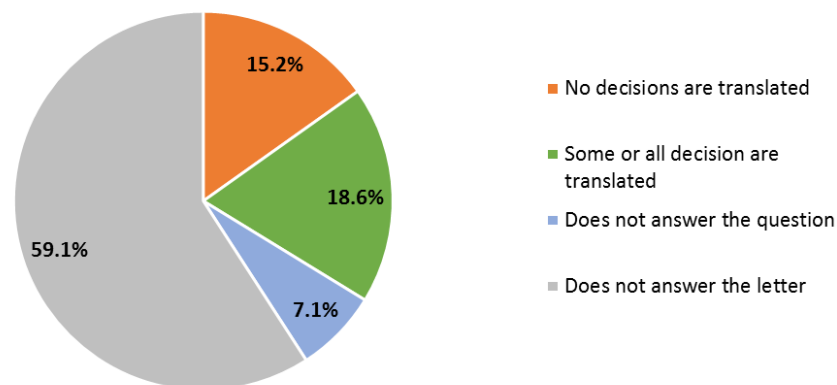


Figure 4.6: How many decisions of the local council are translated into Hungarian?

Looking at this topic on the official webpages of the mayor's offices, the situation is even direr. As the chart below points out (Figure 4.7), **only 3.4% of the mayor's offices upload the local council decisions on their webpage in both Romanian and Hungarian**, while in 22% of the cases only the Romanian language is used. 25.7% of the settlements do not upload any decisions on their webpage and the rest of the settlements (48.9%) does not have a Hungarian language webpage or does not have a webpage at all.

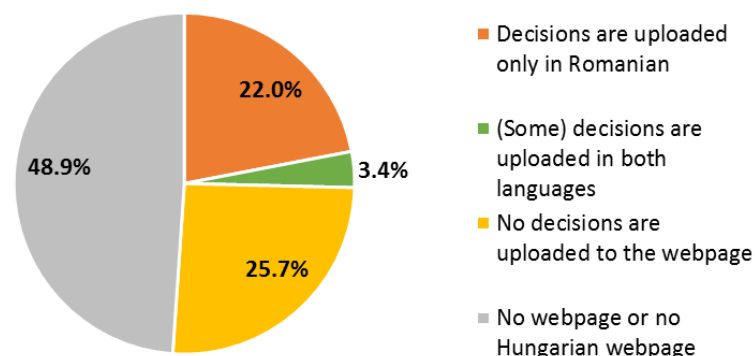


Figure 4.7: How many of the local council decisions are uploaded in both languages on the official webpage of the mayor's office?

According to our monitoring project conducted between September 2014 and February 2015, the settlements that published decisions in Hungarian are the following: Băile Tuşnad/Tusnádfürdő, Doba/Szamosdob, Diosig/Bihardiószeg, Ditrău/Gyergyóditró, Dorolt/Pusztadaróc, Eremitiu/ Nyárádremete, Estelnic/Esztelnek, Găleşti/Nyárádgálfalva, Sfântu Gheorghe/Sepsiszentgyörgy, Târgu Mureş/Marosvásárhely and Zăbala/Zabola. Most of these settlements have a majority of Hungarian population.

Conclusions

In conclusion, as the above presented statistical data shows, ***the legal provisions presented in the Forth Periodical Report submitted by Romania are implemented only sporadically by the mayor's offices***, as only 173 settlements (51.4%) have basic of Hungarian content on their official webpage, and of these only 25.5% have useful and up to date information in Hungarian. Also, as the answers to our official letter show, only around 36.5% of the settlements can communicate in writing in Hungarian. However, most of these settlements are seldom using these skills, only 5% of them (16 settlements) declared that they actually received and answered written applications in Hungarian.

In the case of ***the translation of documents into Hungarian the situation is even worse, as it is limitedly practiced by local councils and mayor's offices in Romania***. According to our monitoring the translation of the agenda of local council meetings is practiced only by 74 settlements (22.9% of the total 323 settlements). The decisions of the local council are published in Hungarian even in fewer cases. Our monitoring inquiry shows that 60 settlements admitted to translate these documents (18.6% of the total 323 settlements). In addition, if we look at the webpages of these settlements the situation is even more disappointing: only 11 settlements (3.4% of total settlements) actually publish decisions in Hungarian.

In other words, we consider the implementation of Article 10 of the FCPNM only **fulfilled in a limited way**.

3. Hiring Hungarian language speaking staff

Although theoretically Hungarian speaking citizens can address public institutions in their mother tongue if the percentage of Hungarians exceeds the 20% threshold in many cases those public servants who are in direct contact with the citizen's do not understand nor speak Hungarian. This can be explained by the fact that the laws regulating how public servants are hired does not specify the positions in which Hungarian speaking staff should be hired. Consequently, it is up to the head of the institution to decide if Hungarian speaking people will be hired in public relations offices or not. According to our inquiries there are several institutions even in Harghita/Hargita County – where the population is predominantly Hungarian speaking – where citizens cannot use their mother tongue because there are no Hungarian speaking personnel hired in public relations positions (see the case study from Harghita/Hargita county under the following chapter).

Also, because the law does not specify which public positions should be filled by minority language speakers, if a recruitment notice requires Hungarian language competences, in some cases it is attacked before the court or at the National Council for Combating Discrimination. A telling example is the case of the County Library in Covasna/Kovászna Country from 2009. The County Council was looking to hire Hungarian speakers for the Director position within the County Library. This condition was specified in the recruitment notice of the job. As 75% of the population in the county is Hungarian speaking, and more than 80% of the books in the library were of Hungarian language they thought that it is important for the head of the institution to speak the language. Not shortly after the selection a complaint was filed at the National Council for Combating Discrimination against the County Council, which argued that the Hungarian language

competences required to fill this position were discriminative toward non-Hungarian speakers. After a two year process both the NCCD and in second instance the Brasov/Brassó Appeal Court confirmed the discrimination and obliged the County Council to reopen the competition for the position.⁴²

Conclusions

As the examples above have shown, there are several public service institutions, where the provisions of Article 10 of FCPNM and the law are not implemented. As the above presented case studies show, although almost 70% of the institutions declare that they can use Hungarian language in relationship with the citizens, some ***important institutions with impact on the everyday life of the citizens*** – Harghita Emergencies Situations Inspectorate, Harghita County Gendarmerie, Harghita County Police Inspectorate – ***do not take into account the provisions of the law***.

Also, as the actions of the prefect's office and the court show, despite the fact that the Parliament ratified the FCPNM, it lacks implementation, as representatives of the government and judicial system fail to oblige the involved parties to abide the law.

Therefore, we consider the provisions of Article 10 of the FCPNM to be only ***partially fulfilled***.

Recommendations

In the case of **Article 10** of the FCPNM, one can conclude that despite the adopted legislation only a few local institutions (mayor's offices, deconcentrated services, and prefect's offices) actually implement the law and there is no comprehensive state-strategy on this issue. Although we talk about important institutions with impact on the everyday life of the citizens, ***institution leaders apply the provisions of the law only in an ad-hoc manner, and they are not urged by state authorities to implement minority language usage***.

Therefore, we would respectfully ask the members of the Advisory Committee 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 Article 2 of the FCPNM.

Furthermore, ***we would like to ask the Advisory Committee and the Committee of Ministers of the Council of Europe to recommend Romania the implementation of a structured approach regarding Article 10 of the FCPNM, with the following key elements:***

1. the introduction of a national and regional strategy of implementation that would regulate the usage of Hungarian language on every level of the administration;
2. clear procedural norms of application and an active involvement of the prefects in supervising the implementation on local and county level, and sanctioning when the implementation is not met;
3. publicly accepted and released time-frame of implementation with clear deadlines and obligations;
4. 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 laws regarding minority language usage.

⁴² On the arguments presented by the County Council see an article appeared in the mass media (<http://itthon.transindex.ro/?hir=20690>), and for the decision of the Brasov/Brassó Appeal Court see: <http://itthon.transindex.ro/?cikk=15037>.

Article 12

Paragraph 1

The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.

Paragraph 2

In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.

Paragraph 3

The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

In the FCPNM there are three articles that are related to minority language education: Article 12, which regulates access to education and equal opportunities, Article 13, which grants minorities the right to set up their own private educational establishments, and Article 14, which guarantees minorities the right to develop an own state founded institution system in education. In the following chapters we will focus on Article 12 and Article 14 of the FCPNM. In both cases we will deliver a brief analysis of the legislation and we will present important case studies that underline the legal and systemic problems of minority language education. Several of these case studies are taken from an open source project called *Iskolák veszélyben* (*Schools in danger*), which is a whistle-blower website that presents the situation of Hungarian education in Romania.⁴³ Also, in some cases (ex. University of Medicine and Pharmacy of Târgu Mureş (UMPT) for Article 14 of the FCPNM) we conducted a monitoring projects based on media-analysis, on-the-spot visits and stakeholder interviews.

In Romanian the provisions of Article 12 of the FCPNM are integrated in the domestic law.⁴⁴ From these, we will focus on three issues: 1) access to textbooks of minorities in general, with special attention to education of the Romanian language and literature, 2) equal access to education at all levels for persons belonging to national minorities and 3) exams and competitions in minority languages.

Access to textbooks

The introduction of a new school-book has a clear procedure: first, a new curriculum is adopted, and then schoolbooks are written in concordance with the newly adopted curriculum.

A. The adoption of a new curriculum

If the Ministry of Education decides to change the curriculum this is done gradually on a year by year basis: first the 1st, 5th and 9th grade curriculum is changes, and then the 2nd, 6th and 10th, and so one. The logic behind this decision is continuity, the Ministry grants each generation the possibility to finish its education according to the curriculum it started. The curriculum for each subject is written by the experts of the Institute of Educational Sciences.⁴⁵ From the perspectives of minority language education two problems arise. First, as

⁴³ For more details see the webpage of the project: <http://www.iskolakveszelyben.ro/english.html>

⁴⁴ The detailed presentation of the Romanian educational system can be found later in the Shadow Report, under the presentation of Article 14 of the same chapter.

⁴⁵ The only exception is the curriculum for minority languages and literature, which is written by experts contacted by the Directorate of Minority Education. (see on this issue: Gáll Erika – Keszeg Jenő: A tanügyi rendszer működésének vizsgálata a magyar nyelv- és irodalomoktatás tükrében [The functioning of the educational system in the light of the Hungarian language and literature education]. *Magyar Kisebbség*, 2014/1-2, pp. 103-105)

presented under Article 14 of the present Shadow Report the Institute of Education Sciences does not have a specific department for minority education and does not have minority language speaking experts among its researchers. Therefore, all curriculums are prepared without taking into account the specific interests of minority language speaking pupils. Second, according to the law, Romanian language and literature ought to be taught as a foreign language for minorities. A separate curriculum for primary school was introduced already in 2001, however for secondary school it was only recently adopted,⁴⁶ while for high school both minority speaking and native Romanian pupils are taught according to the same curriculum. ***This lack of differentiation has severe consequences:***

- Hungarian speaking children from Szeklerland have problems learning Romanian.⁴⁷
- Hungarian speaking pupils have lower grades in Romanian language and literature at their Baccalaureate exam, which hardens their possibilities when looking for university admissions.⁴⁸

B. The introduction of new schoolbooks

According to Article 45, Paragraph 13 of the Law 1/2011 on education “[f]or pupils belonging to national minorities, the Ministry of Education, Research, Youth, and Sports provides the schoolbooks, which may be: books elaborated in the language of the minorities, books translated from the Romanian language, or imported textbooks, approved by the Ministry of Education, Research, and Sports, for the unpublished textbooks, on account of their limited circulation.” Furthermore, all schoolbooks need to be in concordance with the adopted national curriculum.

Therefore, in the case of minority language and literature education for the introduction of new textbooks there are three possibilities. The first two would assume the publishing of new textbooks according to the Romanian regulations, while the third the choice of textbooks published in a county where that minority language is used in education.

According the above cited article by Gáll Erika and Keszeg Jenő importing textbooks would be the best solution for smaller minorities, because from financial perspective it is not worth to publish textbooks with a small number of copies. Also, as most of the Hungarian textbooks that can be imported from Hungary are not in concordance with the Romanian curricula, the Ministry of Education usually does not approve any Hungarian textbooks, not even in the case of Hungarian language and literature.⁴⁹

In other words, although theoretically the law would grant the right for Hungarian teachers to use textbooks written and published in Hungary, practically this is not implemented at all, as the Ministry does not approve

⁴⁶ Despite the fact that it should have been introduced in 2011, the idea of teaching Romanian as a foreign language for minority children was constantly attacked by most of the Romanian political parties.

⁴⁷ This is pointed out and explained extremely well by an article published in 2013 by a native Romanian teacher, who has more than 10 years of experience in teaching Romanian for Hungarian language speaker pupils in the Szeklerland. See: Mă numesc 13! Limba română pentru unguri, văzută de o profesoară în Secuime. [My name is 13! Romanian language for Hungarians seen by a teacher in the Szeklerland] Marghiaromânia blog (https://maghiaromania.wordpress.com/2013/01/18/secuime_limba_romana/)

⁴⁸ An analysis published by Mensura Transylvanica in 2013, centered on the Baccalaureate exam argues that most of the Hungarian speaking children did not succeed at the exams because they could not pass their Romanian language and literature exam, and most of the Hungarian speaking pupils would have achieved better results if the Romanian language and literature exam would have been disregarded. See: Érettségi 2013 [Baccalaureate 2013]. Mensura Transylvanica, 18 July, 2013 (http://www.mensura.ro/iras/erettsegi_2013).

⁴⁹ Gáll Erika – Keszeg Jenő: A tanügyi rendszer működésének vizsgálata..., p. 105

the usage of these kind of textbooks, although in the case of Hungarian language and literature its motifs are questionable.

Therefore, in order to publish new textbooks, the Romanian publishing regulations need to be used. According to these the Ministry of Education in cooperation with the National Center for Assessment and Examination (CNEE) formulates a call for application for the publishing of new textbooks. At these publishing houses one needs to present his version of the schoolbooks, and the Ministry, according to criteria developed by the CNEE, chooses and finances one or two versions. In the case of minority language education publishing houses do not apply with minority language textbook-proposals, most of textbooks are translated from Romanian. Gáll Erika and Keszeg Jenő argue that although theoretically it would be possible to apply with new Hungarian language schoolbooks as well, however because of the small number of copies needed, these usually lose the competition against Romanian language textbooks, as they are not that cost-efficient as the other. A persisting problem from this perspective is the case of the Romanian language and literature schoolbooks, which are not published despite the fact that the separate curriculum for minority education is already implemented. In other words, despite the fact that pupils *should and could learn Romanian language as foreign language under a different curriculum, the lack of textbooks limits their right to do so.*

The only exception from the previous mentioned rule is the schoolbook for Hungarian language and literature education. In this case, as no Romanian version is available, the *publishing houses needs to present the Romanian translation of the textbooks as well, because members of the CNEE committee responsible for the evaluation do not speak Hungarian.* This way it is much less profitable to publish a schoolbook in minority language, which makes these schoolbooks even more expensive. In our opinion the solution would be to have Hungarian speaking members in the evaluating committee.

As a result of this process several problems arise, which in the end jeopardize the quality of Hungarian education. First, as the Romanian translation of Hungarian language and literature textbooks is not supported by the state, and because of the small number of copies needed the financial support received for the publication of these schoolbooks hardly cover the costs, many of the publishing houses are not interested to contract textbooks. Second, as some experts working in the domain point out the compulsory translation of Hungarian textbooks has another component as well: *the lack of trust of state authorities in Hungarian textbook writers and publishing houses.* By asking for translation, they ensure themselves that no prohibited content will be published. Third, as all other schoolbooks are the translation of the Romanian textbooks, it is very important that how these are translated. There is no financial support for proofreading, thus in many cases the Hungarian language school books are of bad linguistic quality.⁵⁰

Conclusions

Minority language education is not treated separately neither in the case of curriculum, nor in the case of textbook publishing. This *affects negatively the Hungarian education*, as its specific needs are not built into the curriculum and the criteria of cost-efficiency clearly favors Romanian language textbooks writing, leaving minority language education to translate the existing Romanian language books. Furthermore, as there is no money for proofreading in many cases these textbooks are of poor linguistic quality. Also, *in the few cases, when minority language education is treated differently (the publishing of Hungarian language and literature textbooks), extra-costs and work are involved*, which tends to discourage publishing houses and textbook writers to apply for financial support.

⁵⁰ idem, p. 108

Equal access to education at all levels for persons belonging to national minorities

According to Law 1/2011 on education persons belonging to national minorities can access education at all levels in their language, however several problems can be indicated on this matter. One of the most important challenges to persons belonging to national minorities, who want to learn in their own mother tongue comes in cases when there is no minority education institution in the settlement where these persons live. In these cases, according to Article 45, Paragraph 7 of Law 1/2011 the state guarantees transportation (or supports the transportation of children) to the nearest settlement, where the person belonging to a national minority can learn on his/her mother tongue. The law enumerates several possibilities for this support, from reimbursement of travel expenses, to operation of school bus. In both cases financial support has to be offered by the local council, not by Ministry, and in the case of school buses other means of support are granted as well (Article 85, Paragraph 2 of Law 1/2011). This is a major change compared to the old Law on education (Law 84/1995), which granted travel-reimbursement directly from the Ministry, thus from the central budget. In other words, those children belonging to national minorities who live in poorer regions or settlements are exposed to the possibility that the local council of the settlement where the minority language school functions cannot afford or delays their support, which in extreme cases could result in their school dropout.

Another novelty of the new legislation is an upper limit determined for travel reimbursements (Government Decision 29/2013). This said provision states that there are unexplainable differences between transportation-costs in different counties, in some cases this difference reaching 100 RON (approx. 22 EUR) on the same route. This regularization had mixed consequences as some Hungarian children, who commute to school on daily bases⁵¹ do not receive full travel reimbursement, but only a partial (down to 25%) one.

In the case of school buses its functioning is regulated by a regulation⁵² formulated by School Inspectorates, which was taken over and accepted by local councils. This regulation has important provisions regarding the operation of the vehicles, the employment and obligations of the drivers and the accompanying personnel and some predictions on operational costs. From the perspective of this Shadow Report several aspects of this regulation influence indirectly the possibility of persons belonging to national minorities to learn on their mother tongue. These are the following:

- routes are adopted by local councils at the proposal of the schools
- the timetable of the school bus is determined by the local councils
- the driver is selected by a committee consisting of three persons: the head of the school, the delegate of the school inspectorates and the delegate of the local council
- the accompanying personnel is appointed by the school
- the budget of the school bus is calculated based on the adopted routes and timetables, the condition of the vehicle and mandatory costs

⁵¹ According to the Schools in Danger project this problem is characteristic to children living in communes in the western part of Mureş County (see the school data sheets on the following webpage: http://iskolakveszelyben.ro/m_maros.html)

⁵² One of the first regulations was worded by the Caraş-Severin/Krassószörény county School Inspectorate, which was taken over by other Inspectorates and settlements as well: Regulament privind modul de utilizare al microbuzelor de transport şcolar (Regulation on the usage of school minibuses). Adopted on 06.12.2010 (<http://cs.isj.edu.ro/Noutati/Regulament%20transport%20microbuze%20scolare.pdf>)

In other words, both local councils and schools directorates have a strong word when deciding where a school bus will function. If these institutions are not open to the educational needs of persons belonging to national minorities, their right for the education on mother tongue can be severely prejudiced. Also, as the regulation does not count with unforeseeable costs (reparation of the school bus, maintenance costs, bigger consumption, etc.), it is up for the local council to resolve the issue. If it has no financial possibilities, even the dropout of the school bus can be considered.

The Iskolák veszélyben (Schools in Danger) webpage⁵³ presents several examples where the abovementioned negative scenarios appear:

- children from Merișoru/Bugusalja and Dobra/Dobratanya need to be transported by their parents or commute by foot to Papiu Ilarian/Mezőbodon (Mureș/Maros county), as no school bus functions in the region.
- Hungarian parents from Lugașu de Jos/Örvénd, Vadu Crișului/Rév, Cacuciu Nou/Magyarkakucs do not choose the closest Hungarian school in Aleșd/Élesd (Bihar/Bihar county) for their children, because there is no school bus that would transport them, and many of them remain in their village in the Romanian language school
- children from Apa (Satu Mare/Szatmár county) cannot choose the closest Hungarian language school in Seini/Szinérváralja (Maramureș/Máramaros county), because the two settlements are in different counties, and according to the regulations the school bus cannot function in this cases
- the Bethlen Gábor College in Aiud/Nagyenyed is one of the few Hungarian language schools in Alba/Fehér county, however the commuting is supported only for children who live close, it is not supported for children living farther in the county
- children from Coștiui/Rónaszék do not have any chance for supported commuting to the closest school in Sighetu Marmăției/Máramarossziget (Maramureș/Máramaros county), they are transported by one of the teachers, who commutes as well
- children from Târcaia/Köröstárkány cannot commute to Beiuș/Belényes (Bihar/Bihar county), to the closest Hungarian language school, because there is no school bus, nor regular bus service between the two settlements
- many children from Călărași/Harasztoș do not go to the closest Hungarian language school in Turda/Torda (Cluj/Kolozs county), because the costs of the commuting are not reimbursed in totality by the state
- half of the Hungarian language speaking children from Cecălaca/Csekelaka go to the Romanian language school in Ațintiș/Cintos, because the school has a school bus, while there is no school bus, nor travel reimbursement to the closest Hungarian school in Luduș/Marosludas (Mureș/Maros county)
- the travel costs of Hungarian children from Iștihaza/Istvánháza to Luduș/Marosludas (Mureș/Maros county) is only partly reimbursed by the authorities

Although not all examples are enumerated, these all point toward one tendency: in all of these settlements Hungarians are in minority, their political representation is weaker, educational civil organizations do not exist, or have weak advocacy activity. Furthermore, decision-makers belonging to the majority **do not recognize, or some of them even are not interested in resolving the problems of Hungarian education**. Furthermore, school inspectorates, the state authority responsible for coordinating education and for implementing the provisions of the educational law at county level do not recognize the importance of the problem either.

⁵³ <http://iskolakveszelyben.ro/>

Conclusions

As a result of the bad implementation of the legislation and the lack of interest of state and local authorities in resolving the situation in many cases ***the right of Hungarian language children to equal access to education is undermined***: without the travel support prescribed by the law their option for the Hungarian language school is hardened or even made impossible.

Exams and competitions in minority languages

An important aspect of the equal opportunities for pupils who learn in different languages is related to the possibilities offered in exams and competitions. According to the Romanian legislation and regulations children who learn in minority language institutions, when participating at exams or competitions, have the rights to use their own language.⁵⁴ This right has two important aspects: 1) the exam-items need to be translated into the minority language, and 2) the participating children can take the written or oral exam in their mother tongue.

From this Shadow Report's perspective the first aspect of the issue is more problematic. In Romania in the case of national competitions and exams (such as the baccalaureate exam or the national assessments in the 4th and 8th grade) all items are formulated and chosen by the National Center for Assessment and Examination (CNEE)⁵⁵, which (in collaboration with the Directorate of Minority Education) is responsible for the translation of these as well. The problem is that in many cases the translations delivered in Hungarian are of very poor quality, pupils have real problems understanding the tasks, and in some cases they even misunderstand it.⁵⁶ In the first case children are forced to work according to the original exam sheets, which are in Romanian language (a language not familiar for them, as they studied the terminology in Hungarian). In the second case, as the exam sheet contains errors, their responses can be compromised.

Conclusions

All in all, in both cases ***Hungarian language children lack of equal chances as their results can be influenced by the quality of the translated exam-items***. Also, if we look at the exam sheets of different domains and years and the reactions appeared in the media this problem is not isolated,⁵⁷ it persists since the CNEE was created and the exam items are translated on central level.

⁵⁴ This is of course not applicable in the case of different language and literature exams and competitions, which need to be taken in the studied language.

⁵⁵ The monolingual Romanian language webpage of the Center can be found on the following address:

<http://www.rocnee.eu/>

⁵⁶ These problems related to translation are two folded. In some cases, (e.g. the 2011 History exam sheet at the baccalaureate) the translation contains factual errors, while in other cases (e.g. the 2015 History or Psychology exam sheets at the baccalaureate) are hard to understand, some sentences having no meaning in Hungarian.

⁵⁷ Media articles criticize the quality of the translation and draw attention to this problem since 2011:

- article from 2011, which argues that point out that there was a serious factual error in the Hungarian translation of the History exam sheet:
http://marosvasarhelyiradio.ro/hirek/hibas_forditas_a_tortenelem_erejtsegi_teteleben.html
- article from 2012, which reports that there were several errors in the Hungarian translation of the exam sheets that year: <http://www.szekelyhon.ro/aktualis/csikszek/az-utolso-vizsganapon-is-voltak-hibas-tetelek>
- article from 2016, that presents the problems related Hungarian language baccalaureate exam sheets:
<http://morfondir.ro/blog/2016/07/15/az-erejtsegi-vizsgarol/>

Conclusion and recommendation

As the presented case studies have shown, in many instances Hungarian language children are discriminated, as their access to education, proper minority language textbook or high quality exam-items is undermined. In the case of textbook publishing, minority language education is not treated differently, and when it is, extra-costs and work are involved, which tends to discourage publishing houses and textbook writers to apply for financial support. Furthermore, in many cases the right of Hungarian language children to equal access to education is undermined: without the travel support prescribed by the law their option for the Hungarian language school is hardened or even made impossible. Also, in the case of exams and competition Hungarian language children are clearly discriminated, as their results are directly influenced by the quality of the translated exam-items. Based on these conclusions we would like to respectfully ask the Advisory Committee

- **to draw the attention** of Romanian authorities that the lack of equal chances within this matter is not in line with the provisions of the FCPNM.
- **to urge** the Romanian authorities to treat separately the minority language education from the majoritarian in the case of textbook publishing.
- **to pay more attention** to the specific problems of minority language education enumerated above.

Article 14

Paragraph 1

The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.

Paragraph 2

In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.

Paragraph 3

Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

The Romanian education system and minority education

According to Law 1/2011 of Education the Romanian education system is organized on two levels: school education (învățământ preuniversitar) and higher education (învățământ universitar). Moreover according to Article 23 of the law, the school education is divided into four further levels: 1) early education, which includes ante-preschool and preschool education (for 0-6 year old children), 2) primary education, which includes preparatory class and I-IV classes, 3) secondary education formed of gymnasium (V-VIII classes) and higher secondary education (high school with IX-XII/XIII classes), 4) non-university tertiary education, called post-secondary education.

Also the severity of the problem can be proved by comparing the Hungarian and Romanian language exam sheets in Psychology published on the official webpage of the Ministry of Education: <http://subiecte.edu.ro/>.

A. School education in minority languages

The law has several Articles on minority education. From these the most important one is Article 45, which states that *“persons belonging to national minorities have the right to study and learn in their mother tongue at all levels, types and forms of school education, under the law”* (Paragraph 1) and *“Pupils who in their locality of residence, do not have the opportunity to learn in their native language are transported to the nearest school with teaching in mother tongue, or receive free accommodation and meals in boarding units which teach in their mother tongue”* (Paragraph 7). Also, the article states that the Ministry of Education assures minority language textbooks and didactical materials (Paragraph 12 and 13) and that the standard cost per pupil and preschooler in the case of minority education is higher than the normal cost (Paragraph 17).

Another important article, Article 46 states that minority pupils *“study all subjects in their native language, except the discipline Romanian language and literature”* (Paragraph 1), and the *“Romanian language and literature is taught by textbooks specifically developed for the respective minority”* (Paragraph 2).

B. Higher education in minority languages

Higher education for minorities is regulated by Article 135, which in Paragraph 1 states that minority higher education institutions can be of three types: 1) universities with minority language faculties, lines or programs, 2) multicultural and multilingual universities with minority language departments or lines, or 3) higher education institutions where minority language groups, departments or lines are organized. Also, Article 135, Paragraph 2 states that in the case of multicultural and multilingual universities minority departments need to be created within 6 months the Law enters into force. These newly formed departments elect their own representatives, and receive autonomy in organizing their activities. Also, the Law in Article 363 enumerates the multicultural and multilingual universities, which are the following: 1) the Babeş-Bolyai University in Cluj-Napoca (education tracks in Romanian, Hungarian and German), 2) the University of Medicine and Pharmacy of Târgu Mureş (education tracks in Romanian and Hungarian), and 3) University of Arts in Târgu Mureş (education tracks in Romanian and Hungarian). In other words, these are the institutions that according to Article 365 of the Law should have *“finalize the new university charter, regulations and methodologies of organization and functioning of universities, in accordance with this Law within 6 month the Law entered into force.”*

C. Decision making regarding minority education

From a decision-making perspective, the school educational system is organized on three levels. Most of the strategic decisions regarding the implementation national educational policy and financing are taken at central level, in the Ministry of Education. The competences of the ministry are prescribed by Article 94 of Law 1/2011. On county level the most important institutions are the School Inspectorates, which act as local executive body to the minister. According to Article 95 of the same law the Inspectorates are deconcentrated bodies of the Ministry of Education, which apply the policies and strategies developed at central level, control, monitor and evaluate the implementation of the law, the quality of teaching and learning activities, and the quality of management within educational units and institutions. At the bottom level of decision making are the Directors, whose activity is regulated by Article 96 of the law. According to this, Directors take decisions within the school but are accountable by School Inspectorates.

Also the Law grants minorities to be represented on all levels of decision-making. According to Article 45, Paragraph 8 national minorities have the right for representation in the governing bodies of schools and inspectorates, proportional to the number of classes function in the administrative unite. Furthermore, each

and every School Inspectorate needs to hire school inspector, who is responsible for minority education. These people are appointed with the consultation of the parliamentary group of the minorities. (Article 95, Paragraph 4). Similarly, if there are minority language classes in a school institution, the Director or one of its deputies has the obligation to know that minority language. Similarly, to the case of inspectorates the minority organization, which has parliamentary group of the minority is consulted when a Director is appointed.

At the level of the Ministry of Education there are several institutions, which focus on minority education. According to Ministerial Decision 3748/2016 one of the Secretaries of State focus on minority education and a Directorate of Minority Education exists as well.⁵⁸ The attributes of the Secretary of State for Minority Language Education is to coordinate activities related to education in minority languages, and relations with the Parliament (Article 8 of Ministerial Decision 3748/2016). The attributes and functions of the Directorate are the following: monitoring the application of the legislation, development of school curricula, of project centered on the improvement of minority education (Article 29 of Ministerial Decision 3748/2016).

Beyond the decision-making structures the law establishes an Institute of Educational Sciences, which should help decision-making with legal expertise and public policy proposals. Also, according to Article 16 of the law, this institute should have a Department of Research and Innovation for minority language education as well.

Systemic problems of the minority education in Romania

Despite specific regulations on minority education one cannot talk about a minority educational system, as there are no institutional guarantees that would allow minorities to organize their institutional system and that would protect minority education from systemic pressures and implementation failures. In the following paragraphs we will present several case studies that will try to prove this statement, and also will show that this centralized system allows Romanian state authorities to weaken minority education in a systemic way. First, we will present the case of the Institute of Education Sciences, which, despite the fact that the law prescribes it, does not have a department focusing on minority education. Second, some legal gaps and their consequences will be presented that allow state authorities to cut back minority education. Third, a case study on the decision-making regarding minority education is presented. Fourth, by presenting the case of Hungarian Departments at the University of Medicine and Pharmacy of Târgu Mureş/Marosvásárhely despite the clear legal provision on this issue, we will present evidence on the lack of commitment of the Romanian state authorities to enforce the provisions of the educational law on minority language education.

A. Problems in implementing the law. The case of the Institute of Educational Sciences

Although – as mentioned earlier – the law guarantees the creation of a Research and Innovation department focusing on minority education within the Institute of Educational Sciences, however, despite the fact that the law is in effect since 2011, **this has not been created ever since**. Moreover, the Institution's web page is not translated to any of the minority languages,⁵⁹ the research of minority education is not mentioned in the mission statement of the Institution and there are no researchers hired, who work on minority education.

⁵⁸ Although it is a new regulation, the competences, and responsibilities of these institutions did not change radically in the past years, in the 2011-2016 period it was regulated by Ministerial Decision 5650/2011 Government decision 185/2013.

⁵⁹ See: <http://www.ise.ro>

Also, if we look at the Research Framework for 2013-2016 of the Institution⁶⁰ we can find no mention of minority education either.

This fact is even more problematic as the Institution has as mission to “*actively contribute to educational innovation through expertise, training, studies and research*”, and it “*actively implemented national and international projects in the field of education and youth, developed curricula and teacher training, conducted pilot projects in innovative areas of learning.*” However, it had done so without taking into account the specific viewpoints of minority education. In other words, these developments prove that the **Romanian state is not interested in increasing the quality of minority education**, similarly to the dominant Romanian one.

B. Legal gaps

Although the Law on education presents a seemingly good framework for the minority education, combined with the implementation of other Articles and Paragraphs of the same law it can even be counterproductive. According to Article 63, Paragraph 1 of the law a minimum and maximum number of children are specified with which an independent class can function. This number is 5 to 9 in the case of ante-preschool education, 10 to 20 in the case of preschool classes, 12 to 25 in the case of primary education, 12 to 30 in the case of primary secondary education and 15 to 30 in the case of high school education. If these numbers are not reached, a class still can function but it needs a special permit which is issued centrally by the Ministry of Education or the School Inspectorate (Article 63, Paragraph 2 or 3). These however can happen only in “exceptional situations”.

This legal provision applied in a malicious manner can have several consequences. In the following paragraphs we will present a scenario, through which minority education can deteriorate. Also, by using the examples gathered on the website of the Schools in danger project some concrete examples are presented.

In many cases there are not enough minority language speaking children to form a class, and despite the fact that the law guarantees exceptions, School Inspectorates or the Minister in many cases does not give the permit for the classes to function. In this case two classes are merged, obliging the teachers to teach two or more classes simultaneously. Also, the merger usually causes the deterioration of the school, as many parents decide to enroll their children elsewhere. Furthermore, as many experts in education note, the system is centralized as permits are issued at central level by decision-makers who are not always familiar with the local situation.

This situation is characteristic among others to the Hungarian education in Zimandu Nou/Zimándújfalú (Arad county), Tărian/Köröstarján, Tărcăia/Köröstárkány (Bihor/Bihar county), and there are several settlements when merger could happen any time: see among others settlements such as Aleşd/Élesd, Tileagd/Mezőtelegd, Vadu Crişului/Rév (Bihor/Bihar county), Braniştea/Árpástó, Beclean/Bethlen (Bistriţa-Năsăud/Beszterce-Naszód county), Teliu/Keresztvár (Braşov/Brassó county)⁶¹

3. A third scenario that is a direct result of these legal provisions usually happens is the case of rural preschool institutions and kindergartens. In many villages a result of lack of children both on the level of the institution

⁶⁰ The document in Romanian language and can be downloaded from the following link: http://www.ise.ro/wp-content/uploads/2014/08/Plan_cercetare_2013_2016_v2.docx

⁶¹ For details see the web page of the Schools in danger project: <http://iskolakveszelyben.ro/>

and the class, according to the provisions of Article 19, Paragraph 1 and Article 63, Paragraph 1 Romanian language preschool classes were merged with classes from other villages from the same territorial-administrative unit. However in some villages the minority language classes manage to survive and continue to function. In some of these villages Romanian language speaking parents decide to enroll their children to the closest institution, even if it has Hungarian language education. Although the interest of the majority population toward the minority population could be considered a positive change in majority-minority relations, unfortunately it is not the case. In many cases when in minority classes where Romanian language speaking children are involved **a language shift takes place and the language of education becomes Romanian, depriving the right of Hungarian children to learn in their mother tongue**. Moreover, although this is clearly not in line with the current legislation, neither the School Inspectorates nor the Ministry do not take steps to remedy the situation.

This situation is characteristic among others to preschool education in Variașu Mare/Nagyvarjas (Arad county), Sărata/Sófalva (Bistrița-Năsăud/Beszterce-Naszód county), Vulcan/Vulkán (Hunedoara/Hunyad county), Copșa Mică/Kiskapus (Sibiu/Szeben county), settlements in regions where only a smaller community of Hungarians live.⁶²

Conclusions

As the presented scenarios show, the provisions of the law used in a malicious manner could weaken Hungarian education. Also, as the examples show, in many cases **decisions are taken without the involvement of the local community**.

In other words, the educational law does not favor the creation of a minority school system, does not allow the representatives of the minority to decide on the functioning of the minority language school network, but keeps every decision centralized.

C. The problems of decision-making regarding minority education

As pointed out in the earlier chapter, there are several central and county level bodies and institutions that focus on minority education. At first glance one could conclude that there are several decisional bodies in the case of minority education in Romania. However, if we look closer on the regulations regarding these bodies several comments and critiques can be formulated, which show how little room there is for minorities to make decisions regarding their own educational problems.

On central level there are two institutions that focus on minorities, Secretaries of State focusing on minority education and a Directorate of Minority Education. Their activities are regulated by Ministerial Decision 3748/2016, which substituted the provisions of Ministerial Decision 5650/2011. In the case of the two institutions in question there is no difference between the two documents, therefore the problems indicated below cannot be considered a result of the newer regulations, but a general system level flaw.

According to Ministerial Decision 3748/2016 the Secretaries of State focus on minority education coordinates the activities regarding minority education and coordinates the Minister's relation to the Parliament (Article 7). Also, as Article 5, Paragraph 3 of the same document points out, Secretaries of State only in some cases have decision-making authority, their activity is more related to the field of policy making and

⁶² For details see the web page of the Schools in danger project: <http://iskolakveszelyben.ro/>

implementation: they enforce the laws in force, they can initiate the draft of new bills, but in these cases the final word always comes from the Minister itself.

According to the Ministerial Decision, the Directorate of Minority Education does not have decision-making capacities either. Article 29 of the document points out that the main function of the Directorate is to monitor and evaluate the implementation of the law and to recommend action which could improve minority education. Also it can initiate programs or actions that can improve the education of children who learn in a minority language. Another problematic aspect of the Directorate is the fact that it is responsible for all minority language education. Working with a staff of 11 people it is responsible for education in nine languages (!): Hungarian, Romani, Czech, Slovak, Bulgarian, Serbian, Turkish, Ukrainian, and Polish. From these Hungarian is the most numerous, representing more than 6% of the population.

Furthermore, as a case study on the decision making institutions of Hungarian education points out,⁶³ usually most of the experts on Hungarian education working at the Directorate of Minority Education are teachers of Hungarian language and literature. Therefore, they can carry out efficient work only on this domain, but they are responsible for all domains in Hungarian education. Also, as all educational specialties (Mathematics, Physics, Social Sciences, Music, etc.) have their own committees within other directorates, who monitor the activity within these educational domains, the Directorate of Minority Education has only little impact on these aspects of minority education: only mediates between the Ministry and the Hungarian-speaking teachers of every specialty.

Similar patterns emerge in the case of the higher inspector regarding minority language education present in each and every School Inspectorate where minority education exists. According to Article 95 of Law 1/2011 on education School Inspectorates do not have a lot of decision-making rights in the first place: they focus on the implementation of the current legislation, they monitor the activity of schools from several perspectives and approve the foundation of new educational institutions (elementary schools, primary schools, secondary schools or high-schools). The law however does not specify the exact role of the inspector regarding minority language education, therefore each and every School Inspectorate decides individually what its competencies are.⁶⁴

Conclusions

In conclusion, ***neither the central institutions nor the county level ones focusing on minority education have actual decision-making rights*** and they ***do not have separate budgets*** that they could manage independently. Also, the Directorate of Minority Education has a large ***competency deficit and overload***, and has ***little impact*** on minority language education which is not related to language and literature. Similarly, in the case of School Inspectorates ***the competencies of the inspector regarding minority language education are not specified***.

In other words, although minority language education in principle is assured on every level, this is not built into a minority educational system, as ***no decision-making competencies*** are delegated to the relevant central or county level institutions.

⁶³ Gáll Erika – Keszeg Jenő (2014): *A tanügyi rendszer működésének vizsgálata a magyar nyelv és irodalom oktatás tükrében*. Kolozsvár: XVII. reál- és humántudományi Erdélyi Tudományos Diákköri Konferencia (ETDK), 2014. május 15–18. Available: http://epa.oszk.hu/02100/02169/00048/pdf/EPA02169_magyar_kisebbsseg_2014_2_085-116.pdf

⁶⁴ This information does not appear on the webpages of the Inspectorates either. In many cases the person responsible for minority language education cannot be localized, it is not clear which inspector is responsible for this domain.

D. The Hungarian Departments at the University of Medicine and Pharmacy of Târgu Mureş (UMPT)

The University of Medicine and Pharmacy of Târgu Mureş (UMPT) is one of the 11 universities in Romania, where medical training takes place, but it is the only one in the country, which has a Hungarian track of study. Therefore, it is the sole institution in Romania where Hungarian young people could learn medicine in their mother tongue.

1. Short history of the institution

It was founded with a royal decree in 1945, as the Medical Faculty of the Bolyai University from Cluj-Napoca/Kolozsvár. It became an independent entity in 1948 as a Medical and Pharmaceutical Institute. It gained national and international prestige in a short time. It functioned as a Hungarian language institution until 1962, when a Romanian section was established, as a first step in its Romanization. The Institute was renamed to University of Medicine and Pharmacy in 1991.⁶⁵

After the Romanian section was founded in 1962 the university offered both Hungarian and Romanian courses, but the practical work was organized in mixed groups and was taught only in Romanian. In the 1980s the Romanization of the university accelerated, part of the Hungarian teaching staff was dismissed and Romanian teaching staff was recruited instead. As a result of this politics, in 1990 only 1/3 of the teaching staff was of Hungarian language. After 1989 the Hungarian students organized a peaceful strike, demanding the autonomy of the Hungarian section. This action among others was used as alibi for the bloody interethnic clashes in the city.⁶⁶ After the events 2/3 of the Hungarian students and a high number of the teaching staff, afraid from the reprisals, fled to Hungary. As a follow up, in the 1990-1991 period from 93 newly hired staff only 8 were Hungarians.

In other words, the Romanization of the university continued after 1989 as well. The percentage of the teaching staff decreased continuously to 28-29%, while the number and proportion of Hungarian students increased constantly up to 50% in the 1990-2011 period.

2. The current situation of the University

As presented in the chapter on the Romanian education system, Article 363 of the 1/2011 Law on Education names the University of Medicine and Pharmacy of Târgu Mureş as one of the three multicultural universities in Romania. Also, in Article 135, Paragraph 2 of the same law it is stated multicultural universities, independent Hungarian departments have to be established.

As Departments can be created only by the Senate of the University (Article 133 of the law), after the law came into force, the Romanian and Hungarian teachers of the University began intense negotiation on the number of the newly created departments. As a result of this negotiation they decided the creation of three Romanian and three Hungarian departments in General Medicine and one Romanian and one Hungarian department in Pharmacy and Dentistry respectively. Beyond this, on 1 June 2011 teachers received an official letter from the Dean, which informed the teachers that from the academic year 2011-2012, according to the

⁶⁵ Detailed history of the university can be found in: Péter, Mihály: *A Marosvásárhelyi Orvosi és Gyógyszerészeti Egyetem történetével és tevékenységével foglalkozó munkák jegyzéke* [List of works dealing with the history and activities of the University of Medicine and Pharmacy in Târgu Mureş]. *Orvostudományi Értesítő*, 2010, 83 (1): 140-145

⁶⁶ *Romania, Human Rights Developments*. Human Rights Watch World Report for the year 1990. (<https://www.hrw.org/reports/1990/WR90/HELSINKI.BOU-02.htm>)

new law of education the teaching process in the university will be performed in separate Romanian and Hungarian Departments. The letter asked every teacher to decide in which department he/she wishes to belong to.

The problems arise on the meeting of the University Senate on 16 June 2011, when the new University Charta was on the agenda. At this meeting instead of voting for the establishment of the Hungarian Departments, ***the members of the Senate voted for the creation of five mixed departments in General Medicine.***⁶⁷ As a result of the voting the Hungarian members of the senate have left the room. As in the Senate Romanian language staff is around 75%, the voting continued without the presence of the Hungarian staff.⁶⁸

After the June decision the Ministry of Education issued an opinion⁶⁹ on the University Charta of the UMPT, asking the University to introduce some important paragraphs in the document. The most important of these modifications was the one focusing on Article 39 of the document. They proposed the replacement of Article 39 Paragraph 1,

Article 39

(1) Under the university autonomy, UMPH Tîrgu Mureş establishes a university structure made up of departments, whose structure is approved by the Senate, on the basis of the proposal of the Faculty Councils.

with the following text:

Article 39

(1) Under the university autonomy, UMPH Tîrgu Mureş establishes a university structure made up of departments, according to the provisions of Article 135, Paragraph 1, Subparagraph 3 and Paragraph 3 of the 1/2011 Law on Education whose structure is approved by the Senate, on the basis of the proposal of the Faculty Councils.

Furthermore, it asked for the substitution of Article 46, Paragraph 1 of the Charter

Article 46.

(1) The faculties carry on education activities on the basis of authorised study programmes, initial or continuing training programmes, full-time instruction. The courses in the undergraduate fields regulated on a sectorial basis are taught in Romanian, Hungarian, English, including non-credit disciplines, according to the students' option, or in international languages (English, French, etc.) in postgraduate extensions. Practical activities, seminars, and training on the job shall be conducted in accordance with the ARACIS rules.

with the following text:

⁶⁷ The University published a press release on the newly created departments on its web page, which can be viewed on the following link: <https://www.umftgm.ro/universitate/media/stiri/stiri-detalii/articol/73.html>

⁶⁸ The Hungarian media reported extensively on this issue. The following article appeared in a local newspaper after the voting: *Becsapták a MOGYE magyar vezetőit* [Hungarian Leaders of UMPT deceived]. *Népújság*, 16 June, 2011 (<http://www.e-nepujas.ro/op/article/becsapt%C3%A1k-mogye-magyar-vezet%C5%91it>)

⁶⁹ Letter 49858/06.10.2011 of the General Legal Directorate of the Ministry of Education regarding the endorsement of the University Charta of UMPT (Annex 14)

Article 46.

*(1) The faculties carry on education activities on the basis study programmes, initial or continuing training programmes, full-time instruction. **The courses, practical work and clinical training are taught in Romanian, Hungarian, English in conformity with Article 135, Paragraph 4 and 5 of the 1/2011 Law on Education.***

In other words the Ministry asked among others for two important modifications which would have guaranteed the creation of Hungarian departments and the foundation of full Hungarian language teaching for students. This second modification is important, as according to the current practice, practical work and clinical training is taught only in Romanian language.

As a result of this letter on the next meeting of the University Senate (24 October 2011) the issue of Hungarian Departments was on the agenda again, however there was no quorum for a vote to take place. The Dean of the General medicine department asked the Hungarian teachers to prepare a simulation of a Hungarian Department in order to prove its capacity that it can function independently.⁷⁰ With the help of the Semmelweis University from Budapest and the University of Pécs Medical School⁷¹ all Hungarian Departments of the UMPT could have received accreditation.

On the next meeting of the Senate of the University (2 November 2011) the results of the simulation were not discussed, however some amendments to the Charta were made. Despite this, all the important observations from the point of view of the Hungarian language education were dismissed. Although all Hungarian language teachers voted against the modified Charta, it was still voted with majority of 2/3.

After these meetings, Hungarian teachers found themselves in a deadlock, which is still not resolved. In March 2012 the Romanian Government issued a Decision 230/2012 on the foundation of a new trilingual Romanian-Hungarian-English Faculty of Medicine and Pharmacy. The decision, however, **was not in concordance with neither Article 135, nor Article 133 of the Law**. Also, it was sharply criticized both by the Romanian faculty members and students of the UMPT and the Romanian opposition, arguing that it is against the university autonomy stipulated in the law.⁷² Moreover, that Decision was at the base of the motion of confidence initiated by the opposition at that time, which lead to the dismissal of the government. Later the decision itself was attacked in court and was repealed.

The last action taken by the Ministry of Education was a mediation initiated by the new Minister, Ecaterina Andronescu. As a result the leaders of the Hungarian academic community from UMPT and the rector signed an agreement on the issue. Despite this the University Senate refused to discuss the case of Hungarian Departments and of Hungarian language practical work teaching. As a response to this all Hungarian language elected officials resigned.

⁷⁰ It is important to mention that the creation of the Hungarian Departments was refused on the pretext that Hungarian Departments would not be able to file for accreditation, as the Romanian leadership of the University believed that there is no appropriate teaching staff to match this criteria.

⁷¹ Both Universities offered the substitute the missing teaching staff in every needed domain. The letters sent by Semmelweis University and the University of Pécs can be read in Annex 15 of the Shadow Report.

⁷² See an article on the issue, which appeared at that time: MOGYE-ügy: kedden jöhet a kormányhatározat [The case of the UMPT: Tuesday the Government Decision may be accepted]. *Krónika*, 12 March 2012

<http://kronika.ro/belfold/mogye-ugy-kedden-johet-a-kormanyhatarozat>

3. Consequences of the lack of decision

Despite the fact that the Law on Education clearly stipulation the creation of the Hungarian Departments in the case of UMPT ***the Senate of the University blocks its implementation for 5 years now***. As their main argument on the sustainability of the Hungarian Departments was refuted, in legitimating their non-decision the leadership of the University refers falsely to university autonomy in the matter. However, this argument is not valid either, as Law 1/2011 on education clearly stipulates that university autonomy cannot be in contradiction with the law (Article 123, Paragraph 3). Also, as pointed out earlier, the Ministry of Education did not intervene efficiently, although according to Article 125, Paragraph 1 of the law it could even dissolve or initiate the reorganization of the whole university. It is worth to mention that in the 2011-2013 period the Ministry of Education ***had other measures to force universities to enforce the law***, but this was revoked by an Emergency Government Ordinance (117/2013) adopted on 30 December. The Ordinance in question revoked Sub-paragraph b of Article 125, Paragraph 1 of the law, which gave the right to the Ministry of Education to “the reduction or temporary or permanent elimination of the access to funding from public sources, at the proposal of the University Ethics and Management Council.”

Beyond this, the ***loss of the multicultural and multilingual aspect of the university continues***. This can be proven by several decisions taken in the last three years:

- Currently the Rector of the University does not speak Hungarian and from the 4 Vice-Rectors only one is a Hungarian native speaker
- All Deans and Department leaders are Romanian in the main executive body of the University, the Board of Directors (Consiliu de Administrație in Romanian), from the 9 members only one is Hungarian
- From the 12 secretaries working in the administration of the University only one speaks Hungarian and all 7 language teachers employed by the University are Romanian speakers
- There is no Hungarian education on the three year programs such as kinetotherapy, dietetics, dental technology, and all the practical work is done in Romanian
- All leaders of the newly founded research institute are Romanian speakers.
- Both the percentage of Hungarian language teachers and Hungarian language students is dropping: fewer Hungarian teaching staff is hired and the number of Hungarian language students is limited through administrative measures, through which it is assured that a constantly growing share of the students is Romanian.

Furthermore, Hungarian teachers who criticize the current leadership and situation at the university are ***intimidated and punished***, as described below. In January 2012 the President of Hungary awarded Professor Szabó Béla, the leader of the Hungarian teachers at the UMPT for his activity in the promotion and development of the Hungarian medical education in Transylvania. The leadership of the university fined those teachers who were present at this ceremony arguing that they were missing work unjustified.⁷³ Szabó at that time was one of the key figures of the Hungarian teaching staff, who asked for the creation of Hungarian Departments at the University. In November 2011 the Intergroup for Traditional Minorities, National Communities and Languages of the European Parliament hosted Professor Brassai Attila, another leader of the Hungarian teachers, member of the Senate of the University to present a report in Strasbourg on the

⁷³ The fined teachers were acquitted by court in 2016. See: *MOGYE: az egész magyar tagozat egyet akar* [UMPT: the whole Hungarian section wants the same]. szekelyhon.ro (<http://szekelyhon.ro/aktualis/marosszek/mogye-az-egesz-magyar-tagozat-egyet-akar/print>)

situation of the Hungarian education at UMPT.⁷⁴ As a response in 2012 the Ethical Committee of the University gave a reprimand to the Professor for its “lack of loyalty to the university”. Brassai sued the university, winning the lawsuit later that year.⁷⁵

Conclusions

As the case study presented above shows, although Law 1/2011 on education theoretically gives the right for the Hungarian community to have an autonomous higher educational system, ***in the case of the medical education this is not implemented***, as the University refuses to implement the law and continues the Romanization of the university started under communist rule. Moreover, as pointed out in the case study ***the state is not interested in resolving the situation, it have chosen to adopt pseudo-solutions, and to revoke important paragraphs from the law through which it could have forced the hand of the university leadership***. These actions were easily downplayed by the leadership of the University of Medicine and Pharmacy of Târgu Mureş/Marosvásárhely.

Conclusions and recommendations

As the presented case studies show, despite the positive aspects of the Law on education there are several problems in its implementation, which show the systemic problems of minority education. In many cases authorities tend to neglect to enforce the law (creation of Hungarian Research department at the Institute of Educational Sciences or the creation of Hungarian Departments at the University of Medicine and Pharmacy of Târgu Mureş), while in other cases it is enforced in a bad spirit (minimal number of pupils in classes or schools). Furthermore, the law does not grant any decision-making powers for institutions focusing on minority education, which hinders the efficiency and quality of minority education.

Based on the examples and case studies presented above our conclusion is that the provisions of the FCPNM regarding education are ***partly fulfilled***. Therefore, we would like to ask the Advisory Committee to recommend the creation of an independent decision-making structure within the Ministry of Education, which would deal with the problems of the Hungarian language education. This newly created institution should have all the competences and the financial resources needed in order to assure education in mother tongue at all levels and in all specializations. In our opinion this would be the best solution to prevent discrimination and malpractice presented in the examples above.

Article 15

|Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

An important critique formulated by the Advisory Committee toward Romania was related to the registration conditions of national minority organizations. As Paragraph 186 of the Third Opinion of the Advisory Committee on Romania point out, “*authorities should, when drafting the Law on National Minorities, create conditions for free and fair competition in the electoral process between different organizations representing national minorities*” (p. 32). The issue was mentioned in the Resolution CMN(2013)7 of the Committee of

⁷⁴ On Brassai’s invitation see the web page of Ms. Gál Kinga, one of the members of the intergroup: http://gal.fidesz-eu.hu/news_display/hungarian_medical_education_in_transylvania_debated_in_strasbourg

⁷⁵ See the article on maszol.ro on this issue: <http://www.maszol.ro/index.php/tarsadalom/6419-pert-nyert-brassai-attila-a-mogyevetoi-ellen>

Ministers as well, which points out that *“it is difficult for persons belonging to national minorities to establish such organisations and benefit from particular provisions of the electoral legislation which establish favourable conditions for organisations of national minorities which are represented in the Council of National Minorities.”*

In the Forth State Report the issue is tackled twice, on page 11, where it argues that *“With reference to registration, despite the fact that there is not a special procedure for the registration of organizations of national minorities, it is worth mentioning that the general provisions regulating the regime of associations and foundations are also applied in their case. The current legislative framework places no obstacles to the involvement of the organizations of national minorities in public life.”* and on page 47, as a comment to Article 15 of the Convention, where it states that *“According to article 62 (2) of the Constitution “the organizations of citizens belonging to a national minority who failed to obtain the required number of votes to be represented in Parliament are entitled to one deputy seat each, under the Electoral Law”.*” Furthermore, it affirms that despite the change in the Electoral System *“[t]he constitutional provisions on the representation of national minorities in the Chamber of Deputies were kept.”*

These statements can be criticized and nuanced on several accounts. Although minorities can create their own associations and foundations according to the general provisions of Government Ordinance 26/2000 concerning associations and foundations, these organizations cannot participate at elections. According to Article 56 of Law 208/2015 minority organizations that had no MP’s in the Parliament need to fulfill two conditions in order to participate at the elections: 1) the organization needs to be of “public utility”, a status that is granted by a Decision of the Romanian Government unilaterally (Article 39 of Government Ordinance 26/2000 concerning associations and foundations), and 2) the organizations needs to present a list of members comprising a total of at least 15% of the total number of citizens who declared themselves as belonging to the minority at the last census (Article 56 Paragraph 4 of Law 208/2015). If this number exceeds 20 thousand people, “members must include at least 20,000 people residing in at least 15 of the counties and in Bucharest, but no less than 300 people for each county and municipality Bucharest” (Article 56 Paragraph 5 of Law 208/2015).

Also, it is worth to mention that these regulations are in practice since 2004,⁷⁶ while the party law was liberalized in 2015: Articles 18 and 19 of Law 14/2003 were changed from needed 25 thousand founding members residing in at least 18 counties and in Bucharest to three founding members.

It is important to point out that the situation is even worse in the case of the **local and county elections**. Although not mentioned in the State Report and not tackled by the Administrative Community either. according to Law 115/2015 in order to participate at local and county level elections, minority organizations that do not have parliamentary representation need to present a list of members comprising a total of at least 15% of the total number of citizens who declared themselves as belonging to the minority at the last census (Article 8 Paragraph 3 of Law 115/2015). If this number exceeds 25 thousand people, “members must include at least 25,000 people residing in at least 15 of the counties and in Bucharest, but no less than 300 people for each county and municipality Bucharest” (Article 8 Paragraph 4 of Law 115/2015). Minority organizations that have parliamentary representation do not need to provide these lists. As mentioned in the previous paragraphs as well this is clearly discriminative, as it makes quasi impossible for non-parliamentary minority organization to participate at elections. On one hand it is very hard to gather the number of needed

⁷⁶ the only change applied is that the minimum number of members needed was dropped from 25 thousand (Law 373/2004) to 20 thousand (Law 208/2015).

signatures, on other hand, it is clearly undemocratic to condition local electoral participation to having members in 15 counties and Bucharest. Furthermore, it is worth mentioning that this Article was present in the previous law on local and county elections as well: Article 7 of Law 67/2004 contained the exact same wording. Moreover, it is important to note that ***these provisions remained unchanged despite a negative opinion formulated by the Venice Commission on this issue***. In 2004, on the request of the Bureau of the Parliamentary Assembly of the Council of Europe the Commission concluded the following:

57. However, the provision of Article 7 [of Law 67/2004] is problematic. It strongly restricts the possibility of more than one grouping of persons belonging to a national minority to be represented in authorities at local level throughout the country. In practice, this principally affects the Hungarian minority. These restrictions do not appear justified. In particular, they are not justified by the necessity of ensuring unity so as to preserve the electoral weight of a minority, inasmuch as one has to take for granted that electors know how to safeguard their minority interests. It has to be emphasised that these comments only concern local elections.⁷⁷

As a result, the issue was tackled by the Monitoring Committee of the Congress of Local and Regional Authorities as well, which in Article 6 Paragraph h of Recommendation 300 (2011) urged Romania to revise law 67/2004. Despite these notifications, ***the Romanian Parliament kept the criticized provisions unchanged, discriminating non-parliamentary minority organizations by prescribing almost impossible and undemocratic conditions for them to participate at local and county level elections***.

In conclusion one can say that the Romanian authorities not only did not create conditions for free and fair competition in the electoral process between different organizations representing national minorities, but it made quasi impossible for other minority organizations then the ones in parliament to participate at elections, both on local and national level. In other words, ***those minority organizations that received parliamentary representation previously can be seldom challenged by other organizations from the same minority***. Furthermore, compared to the regulations regarding the formation of new party, the formation of minority organizations remained discriminatory and non-transparent on several accounts. First, ***the Government can decide unilaterally*** which minority organizations are of “public utility,” ***having the possibility to block organizations from participating at elections***. Second, even if public utility status is granted, an organization needs to compile a list of many members, which ***hardens the electoral participation of non-parliamentary minority organizations***. Having said this, one can conclude that the recommendations of the Advisory Committee and the provisions of Article 15 of the Convention were ***not fulfilled***.

Article 16

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

⁷⁷ See CDL-AD(2004)040-e – Opinion on the Law for the Election of Local Public Administration Authorities in Romania adopted by the Council for Democratic Elections at its 11th meeting (Venice, 2 December 2004) and the Venice Commission at its 61st plenary session (Venice, 3-4 December 2004).
(<http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282004%29040-e>)

Facts and contextual elements regarding the territorial reform in Romania. Hungarian minority reasons for change.

1. The modern Romanian state was created between mid-19th century and the end of World War I. In 1858 the Paris Convention brought about the union of two historical small states, inhabited mostly by ethnic Romanians, i.e. the union of Principality of Moldavia and Principality of Wallachia, under Alexandru I. Cuza, the first (elected) monarch of the Romanian United Principalities, who initiated a territorial-administrative reform after the French model: administrative units named *județ* were created, similar to the French *département*-s. This, aside from social and historical togetherness were shaped to be of equal dimension, both territorially and demographically. Thus, the French unitary state-model was instituted and became the model of the Romanian modernity.

In 1878, Romania gained a new historical territory, Dobruja (Romanian: Dobrogea) which was under Ottoman rule for 450 years. The proportion of Romanians in northern Dobruja was only 21%,⁷⁸ but the new Romanian administration succeeded to change its ethnic composition by settling ethnic Romanians in this region. The settling of World War I awarded Romania with vast territories from Russia and the Austro-Hungarian Empire, doubling the size of the country. The areas acquired included Bessarabia, Transylvania, and Bukovina, other historical regions. Between 1920 and 1940 Romania introduced in these territories its centralizing administrative model, which were different from the local self-governing traditions. These were very important in Transylvania, which was historically a multinational space.

After World War II, the communist rule made some experiments with territorial reforms. In 1950, Romania adopted a Soviet-style administrative and territorial division, reorganizing the country into *regions* and *raions* instead of the former *județ*. Between 1952 and 1968 a *Hungarian/Magyar Autonomous Region*⁷⁹ was created as well, which covered, mainly the historical Szeklerland.

Szeklerland or Székelyland is a historic and ethnographic area in Romania, inhabited mainly by Hungarian speaking people. The **Székelys** (or **Szekler-Hungarians**) is a subgroup of the Hungarian people, they live in the valleys and hills of the Eastern Carpathian Mountains, corresponding to the present-day Harghita/Hargita, Covasna/Kovászna, and south-eastern parts of Mureș/Maros counties in Romania, where they constitute a local majority (see the two maps in Annex 16). What is important in understanding their identity is their specific history: they had home rule from the 13th century till 1876. By the Paris Treaty from 1919 Romania recognized and promised them a local autonomy in education and ecclesiastic matters. This history and this strong tradition explains today the Szeklers aspirations and effort to achieve territorial or regional autonomy in the frame of the Romanian regionalization plans.⁸⁰

2. The change of the communist regime under Ceausescu's leadership came out with a new territorial-administrative reform. Ceausescu re-established the former existing counties (*județ*) with some important changes (Law 2/1968). Since the adoption of this law till 1998 there were no important changes regarding the territorial divisions of the public administration.

⁷⁸ see: https://en.wikipedia.org/wiki/Dobruja#Demographic_history

⁷⁹ see: https://en.wikipedia.org/wiki/Magyar_Autonomous_Region

⁸⁰ On this issue see Bakk Miklós: Romania and the Szeklerland – Historical claim and modern regionalism. In: Thomas Benedikter (ed.): Solving Ethnic Conflict through Self-Government. A Short Guide to Autonomy in South Asia and Europe. EURAC, Bolzano/Bozen, 2009 (http://www.eurac.edu/en/research/autonomies/minrig/Documents/Eurasia/Deliverable_No_9_Update_Set_educational_material.pdf)

In 1998 the first post-communist law (Law 151/1998) on regionalization was adopted, which created 8 development regions of NUTS 2 level. In supporting regional development and the promotion of regional projects Law 215/2001 on local public administration envisaged the possibility of creating Intercommunity Development Agencies. These represent private legal entities set up by administrative–territorial units in order to jointly develop projects of regional or zonal interest or to jointly provide public services. The status of these regions is regulated by Law 315/2004 on regional development. As defined in the law, the development region, a voluntary association of neighboring counties, is the relevant territorial unit in implementing regional development policy in Romania. However, development regions are not administrative units and have no legal personality.

The 41 counties and the capital Bucharest, are grouped in 8 development regions, each of these regions gathering 4-7 counties (administrative units based on the above mentioned law from 1968), following some contested criteria. The resulted development regions are the following: North-East, South-East, South Muntenia, South-West Oltenia, West, North-West, Center and Bucuresti-Ilfov.⁸¹ The population of these regions is between 1.90-3.70 million, having an average of about 2.4 million inhabitants. (see Annex 17)

3. From Hungarian perspective the most important development region is the Center region, as all counties where Szeklers live are part of it. In the following paragraph we will examine the economic, ethnic and cultural characteristics of this region. During the period of its existence in the Center region⁸² the internal economic disparity increased, which is contrary to the initial goal of the Romanian regional policy (the reduction of regional disparities).

The region also presents discrepancies from an ethnic perspective:

- its north-eastern part (Mures/Maros, Harghita/Hargita, Covasna/Kovászna counties) covers by and large the so called „Szekelyland” (or Szeklerland), with Hungarian-speaking local majority (in these three counties, which is a little bigger than the historical Székelyland, the percentage of Hungarians is 57%, while Romanians represent 34%)
- its southern-western part, (Alba, Brasov, Sibiu counties) the Hungarians constitutes 5,3% of the population, (Romanians constitute 88%) The headquarter of the entire region is in Alba-Iulia (seat of county Alba), which is situated in the Western part of the region

The increasing economic disparity between the north-eastern sub-region (with Hungarian local majority, including Szeklerland) and southern-western part (with huge Romanian ethnic majority) is clear proved by the following data regarding to the evolution rate of the GDP per capita:

⁸¹ Details on these development regions see: Regions in the European Union. Nomenclature of territorial units for statistics. Eurostat, European Commision, 2011, pp. 112-115
(<http://ec.europa.eu/eurostat/documents/3859598/5916917/KS-RA-11-011-EN.PDF>)

⁸² see: [https://en.wikipedia.org/wiki/Centru_\(development_region\)](https://en.wikipedia.org/wiki/Centru_(development_region))

Table 4.3: The evolution rate of GDP per capita in different counties in the Center Development Region

County in Center Development Region	Year 2000 GDP per capita	Year 2008 GDP per capita	Year 2011 GDP per capita
Counties in the southern-western part of the region (ethnic Romanians: 88%)			
Alba	24	46	47
Brasov	33	55	56
Sibiu	25	52	53
Counties in the north-eastern part of the region (ethnic Hungarians: 57%)			
Harghita	26	36	36
Covasna	28	35	36
Mures	25	36	36

Source: EUROSTAT 2015; Benedek József: *A társadalom térbelisége és térszervezése. A romániai regionális egyenlőtlenségek társadalomföldrajzi vizsgálata*. Egyetemi Műhely Kiadó, Kolozsvár, 2015)

The table above shows that there is a serious setback or stagnation in the sub region inhabited by Szekler-Hungarians, in comparison with the other one, which has ethnic Romanian majority. The public opinion in the first sub region interprets this stagnation as a result of economic discrimination, and considers the Center region as an inefficient tool to manage the disparities.

In conclusion, the above presented disparity must be taken in account in the evaluation of several initiatives aiming regional reforms.

4. The debate on a territorial/regional reform in Romania was launched by several political actors from mainstream parties, beginning from 2011:

- in 2011 the President of Romania, Traian Băsescu, together with the ruling Democratic Liberal Party (PDL) initiated a regionalization project
- in 2013, the government coalition USL has picked up the topic again.

Both initiatives had the idea the transformation of the existing development regions into administrative ones.

Having in mind the above presented disparities, the political representatives of the Hungarians in Romania (and particularly those of the historical Region called Szeklerland/Székelyland where the Hungarian population is majority) formulated proposals to a new territorial arrangement:

- since 2004, the SzNC advocates for the creation of Szeklerland as a full-fledged self-governing region within Romania. The initiatives proves a high mobilization potential of this movement and carried out the following actions: 1) unofficial local referendums on the question of the regional self-government of Szeklerland; 2) public approved appeals to the government, Parliament and President of the State to facilitate dialogue on the question of decentralization and autonomy of the Szeklerland; 3) appeals and claims to local authorities from the Szeklerland to organize local and county level referendums to measure the will of population regarding to autonomy of Szeklerland.⁸³
- in September 2007 DAHR elaborated a proposal for the change of the territorial structure of the development regions, increasing the number of the existing NUTS II regions from 8 to 16. Also they suggested that one of the new development regions to include only Mureş/Maros, Covasna/Kovácsna and Harghita/Hargita counties (See Annex 18).
- in 2012 the Transylvanian Hungarian People's Party proposed another arrangement, which ignored the existing county-bordered focusing approach, and proposed an arrangement based

⁸³ The English translation of the proposal formulated by the SzNC is available on the following link:
http://sznt.sic.hu/en/index.php?option=com_content&view=article&id=15:the-autonomy-statute-of-szeklerland&catid=10:statutum&Itemid=14

on internal historical-cultural borders. In their approach one of the regions should be the traditional Szeklerland.⁸⁴⁾

Despite the numerous attempts for dialog,⁸⁵ these initiatives, which would have had serious impact on local communities were neglected by the Romanian government. Therefore, all proposals made by Hungarian minority organizations or local authorities from the Szeklerland were ignored or rejected.

5. According to Article 16 of FCPNM „The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.” A clear identification of meaning of this Article is given by the Explanatory report, annexed to the FCPNM: „The purpose of this article is to protect against measures which change the proportion of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms which flow from the present framework Convention. Examples of such measures might be expropriation, evictions and expulsions or **redrawing administrative borders** with a view to restricting the enjoyment of such rights and freedoms (gerrymandering).” (Paragraph 81)

The logic of the above mentioned article would say that, when talking about the modification of the administrative borders, government representatives, state institutions and other decision-making bodies have the obligations to gain the approval of the groups involved in these changes. This obligation is imperative in the case of Regions where ethnic minority communities live. Therefore, if Romania wishes to redraw the administrative borders of territorial units where large number of persons belonging to national minorities live, it has the obligation to gain the democratic approval of these persons.

The ways of gaining this democratic approval is given by Article 15 and the specifications enumerated in Paragraph 80 of the Explanatory Report of the FCPNM. These are the following:

- consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly;
- involving these persons in the preparation, implementation and assessment of national and regional development plans and programs likely to affect them directly;
- undertaking studies, in conjunction with these persons, to assess the possible impact on them of the projected development activities;
- effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels;
- decentralized or local forms of government.

6. Beyond the provisions of the FCPNM ratified by Romania, the country also assumed the obligation to *organize referendum* in order to consult the population in any case of *redrawing administrative borders*. These obligations are codified both in domestic laws and by international treaties.

- According to Article 22 of the Law 215/2001 (revised): „[t]he territorial delimitation of the communes, towns and counties shall be established by law. Any change in their territorial limits may

⁸⁴ The proposal of the Transylvanian Hungarian People's Party can be downloaded from the following links: <http://www.neppart.eu/proiect-de-regionalizare-a-romaniei.html> (in Romanian), <http://www.neppart.eu/javaslatok-romania-regionalis-atalakitasara.html> (in Hungarian).

⁸⁵ See these attempts in the following subchapter.

be made only by law and only after *prior consultation of the citizens in the respective territorial-administrative units by referendum*, to be organized according to la law.”

- According to Article 5 of European Charter of Local Self Government (ratified by Romania in 1998), „changes in local authority boundaries *shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum* where this is permitted by statute.” The condition stipulated in Article 5 of „... where this is permitted by statute” is fulfilled by the above quoted Law 215/2001
- According to Article 15 (1 a) of *Treaty of Understanding, Cooperation and good Neighborliness between Romania and the Republic of Hungary* (signed in 1996) „The Contracting Parties pledge that in regulating the rights and obligations of persons belonging to national minorities living on their territory, *they shall enforce the Framework Convention of the Council of Europe regarding national minorities*, if their lawful internal order does not contain more favorable regulations regarding the rights of persons belonging to minorities.” Therefore, any infringement of the FCPNM, particularly the *redrawing administrative borders without local approval by referendum* can conduct to serious bilateral conflict due to the implicit infringement of the bilateral treaty.

Concerns about the lack of dialogue between government officials and the Hungarian representatives regard the Szeklerland as a region

The Advisory Committee on the FCPNM in its Third Opinion on Romania adopted on 21 March 2012 „*urges the authorities to ensure that the rights of persons belonging to national minorities are duly taken into account when planning and implementing the reform of territorial administration in Romania and that there is no negative impact on the right of persons belonging to national minorities to participate effectively in public affairs at local level. Such efforts should ensure the maintenance and promotion of intercultural dialogue, tolerance and everyday contact between minorities and majorities throughout the country, in accordance with the principles enshrined in Article 6 of the Framework Convention.*”

In its response formulated in the Forth State Report, the Romanian Government provides a short argument on this issue, which can be explained by the fact that there is no definite project on regional reform in Romania. In spite of this fact, some concerns can be formulated with regard to the following statement of the Romanian Government: „for the definition and implementation of policies aimed at the process of regionalization, decentralization, the Romanian Government through the Ministry of Regional Development and Public Administration, *provides a framework participatory and transparent, involving all stakeholders: central and local public authorities, academia, civil society, business.*” (p. 51)

Contrary to this statement, a lot of facts seems to demonstrate the lack of transparency and a very hampering attitude on behalf of the state authorities (the prefect, some mayors, a.s.o). In the following paragraphs we will deliver some examples that underline this:

1. In 2013, the Romanian government initiated a series of public consultations (called ‘Regionalization Caravan’ by the press) in almost every major city of Romania. The consultations were made in the absence of a clear, scientifically grounded policy proposal, it was more a campaign to promote the Government’s concepts and legitimize the reform process itself. The participants were mostly state representatives (prefects, officials from administrative subordinated institutions, local councilors selected on the base of their affinity to the governing coalition), but no ethnic Hungarians or the representatives of other ethnic groups were involved in this action.

2. Initiatives and appeals coming from the civil society were neglected, or acknowledged with a formal answer. In this respect, a good example is the Appeal of the League of Democratic Transylvania to the President of Romania⁸⁶ (with special regard to point I.), which did not even obtain a formal confirmation from the Presidency.

3. An Open letter regarding the administrative reform sent to the Prime Minister of Romania by Szekler National Council on May 13, 2012 advocating for the claims of the Szeklers and the creation of the Szeklerland as a region was answered by the government in empty phrases about being in concordance with the international treaties (see Annex 19).

4. The Szekler National Council presented several manifestos, petitions and proclamations to the prefect of Mures/Maros County regarding the territorial reorganization of Romania

- On 10 March 2013 on the Day of the Szekler Freedom, a mass meeting was organized in Târgu Mureş/Marosvásárhely in order to commemorate the Szekler martyr' (on the same day in 1854 four Szekler fighters for freedom were executed in Târgu Mureş/Marosvásárhely by the Austrian absolutist regime's authorities). At the end of the meeting a Petition was handed to the prefect of Mures-Maros County, the local authority representing the government.
- On 10 March 2014 on the Day of the Szekler Freedom, a rally (with about 10.000 participants) organized by the Szekler National Council. Also a Manifesto was presented⁸⁷. which was approved by ovation by the people present and then it was handed to the prefect. The authorities did not react to the text of the manifesto, but the public support for this Manifesto set off some countermeasures of the authorities, which were presented in this Shadow Report the subchapter regarding Article 7 of the FCPNM.
- On 10 March 2015, a Petition on The Day of the Szekler Freedom was addressed to the government and Parliament of Romania⁸⁸
- on 10 March 2016 a Proclamation on the day of Szekler Freedom was presented and approved by ovation.⁸⁹

Although these documents reiterated the claim of Szeklers: (1) the need of self-government for historical Szeklerland; 2) demand for creation an administrative region of NUTS II category called Szeklerland, 3) principles laid down in Article 11 of Recommendation 1201 (1993), and Art. 12 and Art. 16 of Recommendation 1334 (2003) of the Parliamentary Assembly of the Council of Europe to be respected by the Romanian authorities; 4) protest against the violation of basic rights i.e. freedom of assembly and freedom of speech.), they were ignored by governmental authorities. Such a lack of dialogue could lead to a more polarized situation between the Romanian state-authorities and the Szekler-Hungarian population.

⁸⁶ The full text of the Appeal can be consulted in Romanian on the following webpage:
<http://www.ligatransilvaniademocrata.ro/index.php/media-comunicate-presa.html>

⁸⁷ The text of the Manifesto can be downloaded from the web page of the Szekler National Council:
http://sznt.sic.hu/en/index.php?option=com_content&view=article&id=281:manifesto-on-the-day-of-the-szekler-freedom&catid=12:folyamodvanyok&Itemid=16

⁸⁸ For information on rally this see the articles and photos presented in Annex 20. For the text of the petition see the web page of the Szekler National Council:
http://sznt.sic.hu/en/index.php?option=com_content&view=article&id=315:petition-on-the-day-of-the-szekler-freedom&catid=12:folyamodvanyok&Itemid=16

⁸⁹ For information on this see the articles and photos presented in Annex 21.

For the cases of infringements of fundamental constitutional rights and abuses of civil liberties with the clear aim to damper the expression of democratic will for autonomy see our above recorded cases on Article 7 of the FCPNM.

4. More concern must be shown toward those governmental actions which obstruct in an abusive manner the manifestation of the democratic will toward the regional self-government of Szeklerland. In this respect must be mentioned the abusive formalism instantiated against the decisions adopted by 62 municipalities which decided to join the appeal of the Szekler National Council initiated in 2014, through which it asked local councils from the Szeklerland to adopt a decision about the will to belong to a newly shaped region called Szeklerland.⁹⁰

The Prefects of Covasna, Harghita and Mures counties brought administrative legal actions suits against these local councils. Their legal actions are infringements of Romania's obligation concerning the compulsory consultations with minorities and local authorities in matters of administrative boundaries.

Conclusions and recommendations

As the case study presented above shows, Romanian authorities are not interested in initiating dialogue with national minorities regarding territorial reorganization and, what is more worrying, most of the debate initiated on the territorial reorganization of Romania points toward the transformation of the development regions to administrative ones that would radically transform the current ethnic structure of some counties. Furthermore, state authorities ***systematically disregard, obstruct or even repress*** claims formulated by representatives of the Hungarian community in this matter, acting against the spirit of the provisions of Article 16 of the FCPNM. Therefore, we would kindly ask the Advisory Committee to remind Romania to manage its territorial reorganization in the spirit of FCPNM, and ***involve the representatives of minorities in any decision regarding the issue.***

⁹⁰ The list of the 62 communes and towns that adopted local council decisions on the public will with regard the creation of Szeklerland region can be accessed on the following web page:

http://sznt.sic.hu/hu-sic/index.php?option=com_content&view=article&id=752%3Aszekely-oenkormanyzatok-az-autonom-szekelyfoeldert&catid=12%3Afolyamodvanyok-valaszlevelek&Itemid=16&lang=hu

5. Concluding remarks

Having regard to the Framework Convention for the Protection of National Minorities and the fourth State Report submitted by Romania on 1 February 2016, on the implementation of the Framework Convention, and bearing in mind that specific conclusions and recommendations could help further improve the implementation of the Framework Convention by Romania, we consider that the present concluding remarks could serve as a basis for the opinion of the Advisory Committee intended for the Committee of Ministers, with respect to Romania.

In respect of Article 5,

we conclude that the provisions of Article 5 of the Convention are ***severely breached, and the situation in this respect worsened since the previous monitoring cycle***. Furthermore, Romania ***disregarded the comments and recommendations*** issued by the ECRI Report, which called the attention of the Romania authorities to apply the principle of equal treatment concerning the usage of state and regional symbols. Having said this we kindly recommend the Advisory Committee to call on Romania

- ***to abandon*** the restrictive strategy applied in the case of national and regional symbol usage by minorities.
- ***to encourage*** Romania to start the implementation of its Strategy on interethnic relations, because that can lead not only to the improvement of the situation of national minorities in the country, but to a more harmonic interethnic relations as well.

In respect of Article 7,

we consider the practices of both the Mayor's Office, as well as the Gendarmerie of Tîrgu Mureş/Marosvásárhely regarding the DSzF ***as being in breach of Article 7 of the FCPNM***. Consequently, we would respectfully invite the members of the Advisory Committee to recommend to Romania that public authorities (including police forces, local and central governments)

- ***stop ethnic profiling*** with regards to peaceful assemblies organized by members of the Hungarian community, and to abandon their practice of interpreting fundamental human rights in a malicious, discriminative, and unlawful way.
- ***cease with applying double standards regarding Szekler/Hungarians and their political initiatives***, and instead use the case law of the European Court of Human Rights as a guideline to bring about an interpretation and implementation of the fundamental rights to assembly, and free speech that are in line with the provisions of the Framework Convention for the Protection of National Minorities.

In respect of Article 10,

we conclude that despite the adopted legislation ***institution leaders apply the provisions of the law only in an ad-hoc manner, and they are not urged by state authorities to implement minority language usage***. Therefore, we would respectfully ask the members of the Advisory Committee

- ***to invite*** the State Party to ensure that public administration institutions do not hinder the use of Hungarian language, but rather they take proactive steps to encourage the use of minority languages.
- ***to recommend*** Romania the implementation of a structured approach regarding Article 10 of the FCPNM, with the following key elements:
 1. the introduction of a national and regional strategy of implementation that would regulate the usage of Hungarian language on every level of the administration;

2. clear procedural norms of application and an active involvement of the prefects in supervising the implementation on local and county level, and sanctioning when the implementation is not met;
3. publicly accepted and released time-frame of implementation with clear deadlines and obligations;
4. 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 laws regarding minority language usage.

In respect of Article 12,

we conclude that in many instances Hungarian language children are discriminated. In the case of textbook publishing, minority language education is not treated differently, and when it is, extra-costs and work are involved, which tends to discourage publishing houses and textbook writers to apply for financial support. Furthermore, in many cases the right of Hungarian language children to equal access to education is undermined: without the travel support prescribed by the law their option for the Hungarian language school is hardened or even made impossible. Also, in the case of exams and competition Hungarian language children are clearly discriminated, as their results are directly influenced by the quality of the translated exam-items. Based on these conclusions we would like to respectfully ask the Advisory Committee

- **to draw the attention** of Romanian authorities that the lack of equal opportunities in this matter is not in line with the provisions of the FCPNM.
- **to urge** the Romanian authorities to treat separately the minority language education from the majoritarian in the case of textbook publishing.
- **to pay more attention** to the specific problems of minority language education enumerated above.

In respect of Article 14,

we conclude that despite the positive aspects of the Law on education there are several problems in its implementation, which show **the systemic problems of minority education**. In many cases authorities tend to neglect to enforce the law, while in other cases it is enforced in a bad spirit. Furthermore, the law does not grant any decision-making powers for institutions focusing on minority education, which hinders the efficiency and quality of minority education. Based on these conclusions, we would like to ask the Advisory Committee **to urge the creation of an independent decision-making structure within the Ministry of Education**, which would deal with the problems of the Hungarian language education. This newly created institution should have all the competences and the financial resources needed in order to assure education in mother tongue at all levels and in all specializations.

In respect of Article 15,

we conclude that the Romanian authorities not only did not create conditions for free and fair competition in the electoral process between different organizations representing national minorities, but **it made quasi impossible for other minority organizations** than the ones in parliament **to participate at elections**, both on local and national level. Therefore, we respectfully ask the Advisory Committee

- **to recommend** Romania to change the criticized provisions of law 208/2015 and Law 115/2015 and stop discriminating non-parliamentary minority organizations regarding their participation at elections.
- **to urge** Romania to revise law 208/2015 and Law 115/2015, in line with the recommendations of the Committee of Ministers of the Council of Europe and the Venice Commission.

In respect of Article 16,

we conclude that Romanian authorities are not interested in initiating dialog with national minorities regarding territorial reorganization, and ***systematically disregard, obstruct or even repress*** claims formulated by representatives of the Hungarian community in this matter, acting against the spirit of the provisions of Article 16 of the FCPNM. Therefore, we would kindly ask the Advisory Committee to remind Romania to manage its territorial reorganization in the spirit of FCPNM, and ***involve the representatives of minorities in any decision regarding the issue.***

All told, we consider that since the closure of the Third State Report submitted by Romania the general situation of national minorities, the implementation of minority rights, the Romanian state's attitudes toward minorities and majority-minority relations have worsened in Romania, as ***a decline can be observed in almost all levels of minority protection.*** Furthermore, we consider ***that these are not isolated incidents, but rather systemic problems, and they reflect the attitude of Romanian authorities in the matter.*** Having said this, we would respectfully ask the Advisory Committee to recommend Romania

- ***to revise*** its state politics toward national minorities
- ***to draw more attention*** to the implementation of minority rights and the provisions of the Framework Convention for the Protection of National Minorities.